ROW MAPPING PROCEDURE MANUAL

Chapter 5 Acquisition Maps

Revised September, 2019
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ACQUISITION MAPS

5.1 Chapter Overview

The acquisition map represents the final legal document which, when filed in the Office of the Department of Transportation and the County Clerk's Office, actually accomplishes the required transfer of title.

On July 30, 1996 Section 402 of the Eminent Domain Procedure Law was changed from requiring that the right of way (ROW) acquisition map be filed in the Department of State to filing only in the Department of Transportation. With this new legislation, the right to enter and possess is now conferred upon the Department when the map is officially filed in the Department's Main Office. The notice (memo) of filing that appears on maps which we have filed since July 30, 1996 refers only to the filing of the map in the Main Office of DOT.

It is essential that an accurate delineation be used on every map, since the map represents the legal document by which an affected land owner can identify the limits of the acquisition and the land rights being acquired. It should also be recognized that conformity and uniformity (standardized format) are very important.

This chapter defines the format and content required for the preparation of ROW Acquisition Maps. The revised format incorporates an abbreviated description; refer to Section 5.8 for the elements in an abbreviated description. A written description may be required in certain situations, refer to Section 5.12 for these requirements and elements needed to prepare a written description.

Refer to Article 9, Section 333-b of the Real Property Law for Map Recording Requirements. Refer to Chapter 21 of the Highway Design Manual and Appendix 14 of the Project Development Manual for further guidance in the preparation of ROW Acquisition Maps using CADD. Refer to Chapter 5 of the Highway Design Manual for information on the following:

- Definition of Fee Takings
- Definition of Permanent Easements
- Definition of Temporary Easements
- Definition of Temporary Occupancy
- Definition of Work and Driveway Releases
- Taking Line Review Meeting Requirements
- Guidelines for Setting Taking Lines or Easement Lines

Refer to Chapter 8 of the Highway Design Manual for information on the following:

- Drainage of Surface Waters, Relocation of Wetlands

Refer to Chapter 5 and Chapter 9 of the Highway Design Manual for information on Property Containing Hazardous Materials.

Refer to Chapter 5 and Chapter 13 of the Highway Design Manual for information on Utilities.

Refer to Chapter 18 of the Highway Design Manual for information on Acquiring Property for Sidewalks

Refer to the Surveying Standards and Procedures Manual

See Appendices “Q – 1 thru “Q – 11” for Sample Acquisition Maps
ACQUISITION MAPS

5.2 Mapping Procedures

5.2.1 Assigning Map and Parcel Numbers

Map and parcel numbers are a means to identify property which is to be acquired. The numbers help in keeping accurate records of all property acquired, transferred or quitclaimed along a highway. State Highways usually only have one route number, such as Route 5, but when the State Highway goes from one county into another a different State Highway Number (S.H. No.) has been assigned, an example being Route 5 is S.H. No. 1234 in Oneida County but when Route 5 enters Herkimer County it becomes S.H. No. 5678. Each State Highway Number has a unique map and parcel numbering system which usually begins with Map No. 1 Parcel No. 1. Map and parcel numbers are not to be repeated on the same State Highway. On local highway projects usually you will have one continuous numbering system.

5.2.1.1 Process for Numbering Highways

New highways (Arterial, Interstate, etc.) or existing highways that have had no previous appropriations are to be mapped beginning with Map No. 1, Parcel No. 1. An expressway or interstate route that traverses a region with multiple sections crossing numerous counties requires special attention when assigning numbers due to the naming convention. Map and parcel numbers are not to be repeated on State Highway Numbers.

5.2.1.2 Maintenance Sites

Map and parcel number sequences for maintenance site maps are separate from any State Highway sequence. In reference to storage site maps, they should be assigned in consecutive order within each county. In cases requiring acquisitions for Residency Headquarters or sub-headquarters, each project name should have its own map and parcel number sequence.

5.2.1.3 Assignment of Numbers Within a Project

Ideally map and parcel numbers for all maps should be assigned by starting at the first acquisition, as determined by the relationship of the property line to the survey baseline, and continuing up station along the baseline.

On a map containing multiple parcels of different types of acquisitions, the Fee Without Access parcels should be numbered first, then the ordinary Fee parcels, then the Permanent Easement parcels and finally the Temporary Easement parcels. Try to use consecutive parcel numbers on each map.

Separate maps should be prepared for properties that traverse County Lines. This does not apply to Village or Town Lines. Property lines that traverse City Lines may require separate maps per Sections 349-c and 349-d of the Highway Law.
ACQUISITION MAPS

5.2.1.4 Numbering Various Types of Acquisitions

In the course of preparation of acquisition maps, one aim is to combine maps and parcels wherever possible into the smallest number of individual maps. In order to achieve this objective, there are various requirements for combining single owner holdings, different types of takings and different purposes into single maps. It is intended to set forth herein the basic considerations and methods for accomplishing this purpose.

1. Map Designation

Factors which govern the decision to use one or more maps for a given parcel of property are as follows:

a. Funding

Various authorized funds are used in the appropriation of Real Property. Administrative considerations dictate that, if two or more different funds are involved in a simultaneous acquisition of parcels from one property, separate maps must be prepared for the separate areas to be acquired under each fund.

b. Ownership

Individual maps are prepared for each separate ownership on a project. There are several situations that must be considered, however, in this light. Generally speaking, contiguous properties held in identical capacities and recorded under identical names, even though acquired at different times, by different instruments, can be combined in one map.

When properties are in the same ownership but do not abut physically, the parcels can be included on the same map. This is especially so when the properties have the same economic usage. Thus, a group of separated lots in a subdivision held by one owner can be mapped as separate parcels on one map or, where a parking lot serves a building across the street, the two parcels can be included on the same map. If, however, the properties are too far apart on the project, it may not be practical to include the parcels on the same map.

Conversely, if the same owner should own a residential property and in a different area a commercial establishment, both affected by the same project (but different economic uses), they are generally mapped separately.

c. Combining types of acquisitions

The governing factor in combining types of acquisitions is the duration of the interest to be acquired. Thus, any number of fee combinations and easement acquisitions from the same property may be combined in one map since they are all taken in perpetuity. Temporary easements can be combined with any number of fee and permanent easement acquisitions. Temporary Occupancies must be mapped separately.
2. **Parcel Designation**

Factors which govern the decision to use one or more parcels within a single map are as follows:

a. **Physical Location**

Generally contiguous property or group of properties owned by the same individual may be combined as a single parcel.

b. **Types of Acquisitions**

Different types of acquisitions on the same map are delineated as separate parcels. Two or more easement rights applicable to a property can be one parcel on a map by including the combination of purposes in one easement preamble.

5.2.2 **Mapping Beds of Streets and Beds of Streams**

Title to the bed or beds of streams, lakes, streets, roads, highways and right of ways can be encumbered by the rights of the public for use. Ownership of the underlying fee or base title has little, if any, measurable value except as reflected in the value of the adjoining and unencumbered land. For this reason, the Eminent Domain Procedure Law provides that New York State can acquire title by the filing of a map and description and later publication of a notice of filing of the description and the map. Thereafter, if anyone can come forward and prove that there were compensable damages, they may receive compensation through a negotiated agreement or court action. It should be remembered that beds of roads and streams need full descriptions so that there is something to publish.

Acquiring the Beds of Streets and the Beds of Streams is pursuant to Section 30 of the Highway Law and the Eminent Domain Procedure Law.

You may acquire the beds of multiple streets on one map by using individual parcels for each street.

Set forth below are the general conditions under which the procedure for the mapping of beds of streets and streams can be used.

1. **Streets**

The general rule is that it is unnecessary to map and acquire the beds of streets, roads or highways that are already on or intersect the State Highway System. Even in the case of a controlled access facility, where the traffic is to be maintained by means of a highway grade separation structure or as a frontage road. The exceptions to the general rule, where it is necessary to prepare a map, are as follows:

a. When a road (or a portion of a road) is to be placed on the State Highway System. The process to use for placing a road on the State Highway System is described in Code 7.9-01 of the Manual of Administrative Procedures.

b. In case the intersecting road is to be truncated or dead-ended or where the intersecting road is being relocated and the old location is being included in a controlled access right of way.
ACQUISITION MAPS

c. Where there is any doubt as to the dedication of any street or road within a subdivision.

d. In the case of lanes or alleys when there is no apparent evidence of municipal jurisdiction or maintenance.

e. In special circumstances such as the New York State Thruway, where obligations to bondholders require a continuous and unbroken right of way.

2. Streams or Lakes

Whenever it is necessary to acquire the bed of a stream or lake along with the adjoining upland property, there are several considerations which must be taken into account in determining the method to be used in preparing the necessary map or maps.

a. For practical reasons, when a stream bed is to be acquired, and a reasonable investigation discloses that no interest other than the fee owner, or owners when the property line runs down the center of the stream, of the upland parcel exists in the bed of the stream, it is not necessary to make a special parcel of the stream bed. The watercourse is to be shown as topography and embraced within the parcel belonging to the upland owner. The area of the portion of the parcel that is underwater will be indicated on the map as described in section 5.9.4.

b. In cases where deeds or maps indicate that property owners adjoining a stream only own to the edge of the stream a separate map is made for the bed of the stream and separate maps for the land portion for each owner. For the stream map the name of the stream not the property owner’s name is used as indicated in section 5.12.2, and it is not necessary to show a deed reference.

c. When the beds of State owned lakes or streams are encountered in mapping, refer to Chapter 7, “Transfer of Jurisdiction Maps”.

5.2.3 Map Changes and Revisions

The discovery of errors, the sale of part of a parcel or design changes may necessitate a map change. There are four categories:

1. Changes Prior to Filing in the Department of Transportation

If the original map is in the Regional Real Estate Office or in the Main Office Real Estate Division, but has not yet been filed in the Department of Transportation, it may be recalled by Regional ROW Mapping Unit and corrected, redated, and resubmitted.

NOTE: For minor corrections Regional ROW Mapping Unit may authorize that the changes be made by whichever office has possession of the map.
ACQUISITION MAPS

2. Changes After Filing in the Department of Transportation but not in the County Clerk's Office

After a map is filed in the Department of Transportation it cannot be recalled to the Region. Changes may only be accomplished by filing a revised map. When the primary revision has been accomplished, two other basic changes must be made on R-1's:

a. The map number of a revised map is the same as the original number with R-1 added. If further revisions are ever required, use R-2 and R-3 sequentially. Parcel numbers dropped from a revised (R-1, R-2, etc.) map cannot be used again.

b. Supersede Clauses are required on all R-1, R-2, etc. maps. For instructions on Supersede Notes, see Section 5.11.1.

NOTE: If the map has only recently been transmitted to Main Office Real Estate and has not, as yet, been officially filed, it may be possible to interrupt the map filing process and either make a minor correction in Main Office Real Estate or forward the map to Regional ROW Mapping Unit for corrections. However, the map filing process (electronic) is usually completed within a few days of receipt by Main Office Real Estate.

3. Maps Withdrawn

Regional ROW Mapping Unit notifies the Regional Real Estate Office that a map is no longer required. The Regional Real Estate Office then notifies Main Office Real Estate which prepares a Certificate of Withdrawal which is filed in the Department of Transportation (or in the Department of State if the map was filed prior to July 30, 1996) and notifies Regional ROW Mapping Unit and the Attorney General's Office. If a map is officially withdrawn the map and parcel numbers cannot be used again.

4. After Filing in the County Clerk's Office

Properties for which maps have been filed in the County Clerk's Office are owned by the State and cannot be changed, revised or corrected. Errors on filed maps may require the preparation of claim maps for reimbursement purposes or the preparation of a quitclaim map. Lands cannot be returned to the original owner without their consent.

See Chapter 8 for procedures and examples of Claim Maps and for Conveyance Maps which are used for Quitclaiming property.
ACQUISITION MAPS

5.2.4 Mapping projects of other State Agencies for which the Department of Transportation is the Acquiring Agency

Maps prepared for filing on projects of other State agencies for which DOT is the acquiring agency (e.g., the Thruway Authority) will contain a different statement of necessity and authority (Element #10). It will contain wording which states that the acquisition has been approved by the Commissioner of Transportation. However, this will be separately signed by the Director of the Real Estate Division.

The Statement of Necessity for a Project (Element 8b) will also need to be modified to reflect the Acquiring Agency.

NOTE: This does not affect maps prepared on behalf of local agencies for "off-system" highways.

Note that there is a distinction between situations where DOT is the acquiring agency for other State agencies and situations where DOT is asked only to prepare the map for another agency. If DOT is not the acquiring agency, DOT will not approve or file the map. Therefore, should there be a need to prepare a map for an acquisition to be completed by another State agency, the map should contain approval (Elements #10) referencing only the agency making the acquisition and its applicable statutory authority.

NOTE: See Section 5.14.2 for necessity for the project certification; see Section 5.16 for paragraph stating the authority under which the property is being acquired

5.2.5 Defacto Appropriation

The Court of Claims may find that the existing highway boundary determined by the state is in error and that, because of construction and occupation, the state did "in fact" appropriate lands owned by a claimant.

The court will determine the specific area occupied by the state and value thereof, and may direct that a map be drawn containing a description of the Defacto Appropriation.

5.2.6 Additional Maps Required During Construction

The Engineer in Charge (EIC) should send requests for additional right of way or a change in the taking line to the Regional Construction Engineer together with a sketch showing the new limits of work and a suggested new taking line with type of taking indicated. The Regional Construction Engineer will forward the request with his approval to the Regional Design Engineer who will alert the Designer for the project and will authorize the ROW Mapping Unit to prepare the necessary map or maps.
5.3 **Acquisitions on Local Projects**

For local projects, on which the Department of Transportation is acquiring the property, it is the municipality that will certify to the Commissioner of Transportation as to the need for the property. The municipality's New York State Licensed Land Surveyor or the Consultant New York State Licensed Land Surveyor, working for the municipality, will certify that the map was prepared in accordance with all current NYSDOT policies, standards and procedures, and portrays the intent of the property to be acquired.

The agreement with the municipalities requires them to either follow our procedures or have an alternative procedure which is approved by the Department. Therefore, on projects where the municipality acquires the property, the Department will not be involved in the acquisitions. On projects where the municipality has asked the Department to acquire the property for them, they are required to follow our mapping procedures as stated in the ROW Mapping Procedures Manual unless they have an alternative procedure approved by the Department.

Acquisitions by the Department for a municipality should be transferred to that municipality at the end of the project construction. The process to follow is:

a.) Design prepares a resolution and agreement whereby, when signed, the municipality agrees to accept the property acquired for the project. Design also prepares a list of maps to be deeded to the municipality and forwards the list to Real Estate.

b.) Real Estate forwards the list of maps to Department of Law for the preparation of a Deed conveying the property to the municipality.

**NOTE:** See Section 5.14.2 for necessity for the project certification; see Section 5.16 for paragraph stating the authority under which the property is being acquired.
ACQUISITION MAPS

5.4 Acquisition Map Format With Illustration of Preset Forms

In order to assure a measure of uniformity, a standard format has been developed for all acquisition maps prepared for the Department.

The Department adopted a standard 11” x 17” overall format for appropriation maps. The standard format of the sheets is as follows:
ACQUISITION MAPS

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
ACQUISITION MAP

I hereby certify that the property
mapped above is necessary for
this project, and the acquisition
thereof is recommended.

Date ____________________ 20__

Regional Design Engineer
for the Regional Director of
Transportation Region No.

(Reputed Owner)

There is expected from this appropriation all the right, title and interest, if any, of the United States of America
in or to said property.

Pursuant to the statutes set forth above and the
authority delegated to me by official order of the
Commissioner of Transportation, this acquisition map is
hereby approved and filed in the main office of the
New York State Department of Transportation.

Date ____________________ 20__

Real Estate Division

"Unauthorized alteration of a survey
map bearing a licensed and surveyor's
seal is a violation of the New York
State Education Law."

I hereby certify that this map was
prepared in accordance with current
NYS DOT policies, standards and
procedures.

Date ____________________ 20__

P.L.S. License No.  ____________________

Land Surveyor

I have compared the foregoing copy of the map with the
original thereof, as filed in the Office of the State
Department of Transportation, and I do hereby certify the
same to be a true and correct copy of the original and
of the whole thereof.

Real Estate Division

PREPARED BY ____________________ CHECKED BY ____________________ FINAL CHECK BY ____________________

3/5/08

5-11
ACQUISITION MAPS

5.5 Map Elements With Example Map depicting Element Locations

The elements necessary on an acquisition map are outlined below and illustrated on the Example Map which follows, all or a portion of certain elements will be included on each map depending on the situation.

1.) Map Title (Element 1)

Information to be located in the header of each sheet

a. Official Highway Name and Number
b. Standard Map Title
c. First Six Digits of the P.I.N.
d. Map Number
e. Parcel Number(s)
f. Sheet Number and Total Number of Sheets

Information to be located in the footer of each sheet

g. Prepared By
h. Checked By
i. Final Check By
j. File Name

2.) Parcel Information (Element 2)

a. Reference to any Maps that depict the Property Outline
b. Lot Number
c. Parcel Locator Points (P.L.P.) Coordinates
d. Reputed Owners Name
e. Title Reference
f. Temporary Reference Number [TRN(s)]
g. Type
h. Tax Map Reference Number
i. City, Village
j. Town
k. County
l. State

This element will be an abbreviated description of the parcel and is located on sheet 1 of the map below the Map Title.
ACQUISITION MAPS

3.) Map Features  (Element 3)

a. Scale Bar
b. North Arrow with Meridian Reference
c. Baseline Ties
d. Map Delineation

This element will be located below the Parcel Information. It will delineate all required Topographic, Geographic, Survey, and Appropriation Features.

4.) Insert Sketch  (Element 4)

This element will be located on the map where space is available and is a sketch locating the parcel within the claimant’s property. It is used for those maps where it is impossible to show enough surrounding geographic features on the delineation to enable the parcel to be readily located on the ground, and within the claimant's property.

5.) Special Clauses  (Element 5)

This element will be located on the signature sheet of the map. Listed below are the various Special Clauses:

a. Supersede Note
   A note placed conspicuously to call attention to the fact that a map has been revised
b. Permanent Easement Preambles
c. Temporary Easement Preambles
d. Reservation Clauses
   An appropriate clause designating any rights to be reserved
e. “Subject To” Clause
   An appropriate clause reserving rights which others have in the property, other than fee title, which rights it is deemed practical to continue either as they exist, or subject to certain limitations.

6.) Written Description  (Element 6)

This element follows the map sheets and applies where a full description is required as indicated in Chapters 7 and 8 of the Right of Way Manual (i.e. if there is no Tax Map Parcel Number, for beds of streets and streams, or determined necessary by the Regional Land Surveyor.) The two parts of a written description are as follows:

a. Description Preamble
   A paragraph giving the geographical location of the parcel or parcels to be acquired.
b. Parcel Description
   A written description of an area to be appropriated, as delineated on the map.
7.) Unauthorized Alteration Clause  (Element 7)

This element is located directly above the Certification by the Regional Land Surveyor.

8.) Certifications  (Element 8)

These elements are located at the bottom of the Signature Sheet, and include the following.

a. Land Surveyor’s Certification
b. Project Certification

9.) Acquisition Information  (Element 9)

These elements are located at the bottom of the Signature Sheet, and include the following.

a. Name of Reputed Owner
b. Total Area to be Acquired - only necessary if map contains multiple parcels

10.) Statement of Necessity and Authority  (Element 10)

This element is located at the bottom of the Signature Sheet. The statement cites what is to be acquired, such as Fee or Easement, and under which laws.

11.) Exception of Title and Interest of the U.S.A.  (Element 11)

This element is located at the bottom of the Signature Sheet.

12.) Filing Certifications  (Element 12)

These elements are located at the bottom of the Signature Sheet and include the following:

a. Official Approval of Map and Certification of Filing in the Department of Transportation
b. Certification of “True Copy”
EXAMPLE MAP SHOWING FORMAT ONLY.
THIS MAP DOES NOT REPRESENT AN
ACTUAL ACQUISITION.

JOHN Q. PUBLIC
(REPUTED OWNER)
ACQUISITION MAPS

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
ACQUISITION MAP

ANYTOWN - ANYTOWN, PART 1
SH 00000
PIN 0000000
MAP NO. 63 R-1
PARCEL NO. 81
SHEET 2 OF 2 SHEETS

THIS MAP NO. 63 R-1, PARCEL NO. 81, SUPERSEDES MAP NO. 63, PARCEL NO. 81, CERTIFIED COPY OF WHICH WAS FILED IN THE OFFICE OF THE DEPARTMENT OF TRANSPORTATION ON NOVEMBER 20, 2000

RESERVING, however, to the owner of the property designated as Parcel No. 81 above, and such owner's successors or assigns a permanent right, privilege and easement to transmit water, and for such purposes construct, reconstruct, maintain and operate a pipe line system consisting of such enclosures, conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing no manhole, vent or other structure shall be placed at or above the surface of the ground within 30 feet of any edge of the highway pavement, and further providing, that no change in the grade or in the alignment or location of such pipe line facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Such easement shall be exercised in and, under and across, all that portion of Parcel No. 81 which is within 5 feet of the center of the EXISTING PRIVATE WATER LINE, being a strip of property which is designated on the accompanying map as 10 FEET WIDE RIGHT OF WAY.

I hereby certify that the property mapped above is necessary for this project, and the acquisition thereof is recommended.

DATE 20

Regional Design Engineer for the Regional Director of Transportation Region No.

PLACE NYS LAND SURVEYORS SEAL HERE

UNAUTHORIZED ALTERATION OF A SURVEY MAP IS A VIOLATION OF THE NEW YORK STATE EDUCATION LAW.

I hereby certify that this map was prepared in accordance with current NYSDOT policies, standards and procedures.

DATE 20

P.I.S.L. License No.

LAND SURVEYOR

JOHN Q. PUBLIC
(REPUTED OWNER)

TOTAL AREA

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, except for the purposes of the rights described above, for purpose connected with the highway system of the State of New York pursuant to Section 30 of the Highway Law and the Eminent Domain Procedure Law.

There is excepted from this appropriation all the right, title and interest, if any, of the United States of America in or to said property.

Pursuant to the statutory set forth above and the authority delegated to me by official Order of the Commissioner of Transportation, this acquisition map is hereby approved and filed in the main office of the New York State Department of Transportation.

DATE 20

R.J. Morris, Director, Real Estate Division

I have compared the foregoing copy of the map with the original thereof, as filed in the office of the Department of Transportation, and I do hereby certify the same to be a true and correct copy of the original and of the whole thereof.

REAL ESTATE DIVISION

PREPARED BY CHECKED BY FINAL CHECK BY

5-16 3/5/08
5.6 Explanation Of Elements

The elements deemed necessary on an acquisition map are described below. All or a portion of certain elements will be required on each map depending on the situation.

5.7 Map Title (Element 1)

This element will be located at the top and bottom of all sheets that make up the acquisition map. It will include the following:

INFORMATION TO BE LOCATED IN THE HEADER OF EACH SHEET

5.7.1 Official Highway Name and Number (Element 1a)

This information is acquired from appropriate contract plans and from catalogs listing the official names and numbers of all state highways. If an acquisition is located at the intersection of two State Highways, you may map the parcel to the State Highway where the majority of the parcel resides.

5.7.2 Standard Map Title (Element 1b)

The title will be:

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
ACQUISITION MAP

5.7.3 First Six Digits of the P.I.N. (Element 1c)

This will be the first six digits of the Project Identification Number (P.I.N.). Each project has its own P.I.N.

5.7.4 Map Number (Element 1d)

The first map number for a new project on a highway will be Map No.1, if there were no previous acquisitions. Where there are previous acquisitions on a highway, which can be determined by research in Regional Right Of Way Mapping and by contacting the Regional Real Estate Group as a check, the next map number following the last acquisition map number will be used. Regional Right of Way Mapping will supply consultants with Map and Parcel numbers. Map numbers should not be reused for a specific State Highway Number.

5.7.5 Parcel Number (Element 1e)

The first parcel number for a new project on a highway will be Parcel No. 1, if there were no previous acquisition. Where there are previous acquisitions on a highway, which can be determined by research in Regional Right Of Way Mapping and by contacting the Regional Real Estate Group, the next parcel number following the last acquisition parcel number will be used. There can be more than one parcel number on a map. Parcel numbers should not be reused for a specific State Highway Number.
ACQUISITION MAPS

5.7.6  Sheet Number and Total Number of Sheets (Element 1f)

The total number of sheets includes all sheets included in the acquisition map.

INFORMATION TO BE LOCATED IN THE FOOTER OF EACH SHEET

5.7.7  Prepared By (Element 1g)

The map will have the name of the person who prepared the map.

5.7.8  Checked By (Element 1h)

The name of the person who checked the map to assure that necessary elements are included and correct prior to a New York State Licensed Land Surveyor signing and sealing the map. (The Checklist in Appendix “K” may be used as a guide to determine all necessary elements)

5.7.9  Final Check By (Element 1i)

The name of the person who completed a final check of the map to assure all necessary elements are shown and correct and that the map is signed and sealed by the Licensed Land Surveyor and that there is a signature certifying the map is necessary for the project.

5.7.10  File Name (Element 1j)

The full name of the file used to prepare the map.

5.8  Parcel Information (Element 2)

This element will be an abbreviated description of the parcel and is located on sheet 1 below the Map Title. It will include all applicable information listed under Map Reference Information and under Parcel Summary.

5.8.1  Map Reference Information

5.8.1.1  Reference to any Maps that Affect the Property (Element 2a)

This may be Survey Maps of the property, Canal Maps, Thruway Maps, etc. Reference is made by Map Title, Lot No. (if located in a subdivision), Parcel No. (if shown on a Canal Map, Thruway Map). The map title will be followed by the date the map was created and when and where the map is filed, cc refers to the County Clerk’s Office, D refers to drawer and M refers to map. There may be variations in the way maps are filed in the various County Clerks’ Offices due to their filing systems.

5.8.1.2  Lot Number (Element 2b)

This can be the Great Lot No., Military Lot No., Farm Lot No. etc., followed by the Patent Name, or Railroad Valuation Map numbering.
ACQUISITION MAPS

5.8.1.3 **Parcel Locator Point (P.L.P.) Coordinates (Element 2c)**

State Plane Coordinate, shown to three decimal places, for the point of beginning for each parcel depicted on the map. The P.L.P. is for Geographic Information System (G.I.S.) purposes only.

5.8.2 **Reputed Owners Name (Element 2d)**

This is the name as it appears on the title reference. There may be exceptions, such as where the property is owned by a corporation and the corporation has changed its name since taking title. The words “Reputed Owner” must appear below the owner's name to alleviate the need to change a map when there is a simple change in property ownership. However, in instances when only a portion of the subject property is conveyed, a map change would be necessary.

5.8.3 **Title Reference (Element 2e)**

This could be the Deed Book and Page, Reference to a Will, etc. These records are shown on the map as; CCD meaning County Clerk Deeds, L meaning Liber, P meaning Page, CS meaning County Surrogate, W meaning Wills etc... Other abbreviations would be used as the recorded source of information is determined.

5.8.4 **Temporary Reference Number (TRN) (Element 2f)**

This number coincides with the TRN shown on the title data. If title data is not available this number coincides with the TRN shown on the Abstract Request Map. A map may have more than one TRN. When additional maps are required for a project, title data may be ordered by indicating after TRN either “None” or “By Map No.”. Use an “A”, “B”, etc. if indicated after the TRN on the Title Data.

5.8.5 **Parcel Summary**

5.8.5.1 **Type (Element 2g)**

Will indicate type of interest being acquired, such as: FEE W/O ACCESS, FEE, PERMANENT EASEMENT, etc. Multiple parcel maps will need to indicate the parcel number with the respective interest being acquired, such as:

P#1: FEE
P#2: PERMANENT EASEMENT
ACQUISITION MAPS

5.8.5.2 Tax Map Reference Number (Element 2h)

This number is used for the identification of property for the collection of Taxes. The property associated with the individual numbers is shown on a Tax Map. This map is for information purposes only and thus the parcel size and location may only be approximate. On the Acquisition Map it will be depicted as either Portion or All (depending on the acquisition) of (Year indicated on the Tax Map used in the preparation of the map) Tax Map Ref. No. (Map Reference such as 8.36-1-10). Only depict the Tax Map Reference Number for the Tax Map Parcel in which the acquisition is located.

If for some reason a piece of property does not have a Tax Map Parcel Number, then a full description is necessary. It is not sufficient to show the section and block and state that there is no parcel (lot) number.

5.8.5.3 City, Village (Element 2i)

If it is known that the parcel is located within a City or Village, even if it is not mentioned in the Title Reference, it should be noted on the map as City of _____, or Village of ______.

Names of all municipalities should be referenced on all appropriation maps. For example, if the property is in a Village, the name of both the Village and Town should be on the map, not one or the other.

5.8.5.4 Town (Element 2j)

Note the town or towns in which the map is located. Should be noted on the map as Town of ________.

5.8.5.5 County (Element 2k)

Note the County or Counties in which the map is located. Should be noted on the map as County of ________________.

5.8.5.6 State (Element 2l)

Noted as State of New York

5.9 Map Features (Element 3)

The map features are placed below the Parcel Information (Element 2) on a single sheet map or first sheet on any multiple sheet map. The map features are according to survey measurements and computations using deed dimensions. The lettering generally shall read, left to right and top to bottom, the top being under the Parcel Information. Labeling should be along lines. Any abbreviations used on the map should conform to abbreviations located in the legend for contract plans.

NOTE: To determine correct Microstation line styles and text sizes to use refer to Chapter 21 of the Highway Design Manual.

NOTE: To determine correct file names to use for transfer of information between Right of Way Mapping and the Design Squads refer to Appendix 14 of the Project Development Manual.
ACQUISITION MAPS

5.9.1 Scale Bar (Element 3a)

Generally the scale should be the same as the contract plans and be consistent throughout the project. Exceptions can be made for large parcels. The scale shall be shown by use of a Scale Bar and the written equivalent, such as SCALE 1:50.

5.9.2 North Arrow with Meridian Reference (Element 3b)

The map features, including the parcel to be acquired, should be oriented on the tracing so that the North Arrow points toward the top of the sheet, or toward the right-hand edge, the top being under the Parcel Information. Orientation should match the Contract Plans if possible. The North Arrow will be labeled as TRUE NORTH AT THE__________________________MERIDIAN OF WEST LONGITUDE when using State Plane Coordinates.

5.9.3 Baseline Ties (Element 3c)

Baseline ties will be shown in a box. The stationing, description, State Plane Coordinates, datum, and zone for the baseline angle point will be shown below the baseline tie diagram. State Plane Coordinates will be shown to 3 decimal places. Show enough baseline angle points to contain the mapping limits of the parcel.

5.9.4 Map Delineation (Element 3d)

The maps shall contain all topographic features located within and adjacent to the appropriated area including, but not limited to:
- accident location markers, sometimes referred to as mile markers or reference markers
- alleyways
- billboards
- bogs
- borrow pits
- building (including type and use) e.g., 1-1½ Story Brick Firehouse
- canals
- cemeteries
- creeks or rivers with direction of flow arrow
- drives, including type (e.g., gravel, macadam, concrete)
- falls
- fence lines
- ferry slips
- fords
- gasoline pump islands
- hedgerows
- Highway, including pavement edges, existing boundaries on both sides of the road, if possible, State Highway Number, and Route Number
- hydrants
- lakes
- lampposts
- lanes
ACQUISITION MAPS

manholes
marshes
mines
oceans
orchards
poles, including abbreviated utility company name and pole number
ponds
property line markers
quarries
railroads
reservoirs
rivers with flow arrow
Roads, existing boundaries on both sides of the road, if possible, name of side roads
rock outcrops
sidewalks, including type (e.g., gravel, macadam, concrete)
signs
springs
streams
Streets, existing boundaries on both sides of the street, if possible, name of side streets
structures - include such items as bridges, culverts, trestles, tunnels, piers, retaining walls, dams,
power plants, transformer and other substations, transportation terminals, air and oil
fields, water and other storage tanks.
swamps
towers
trails
trees (diameter and species)
utilities - Main overhead transmission lines and underground utilities such as cables,
       drainage fields, pipelines, septic and other underground tanks, sewers (both storm and
       sanitary).
walls
wells
woods

Existing Features

Adjacent Property Owners Names
Easement lines
Great lot and sub-lot lines identified
Political subdivision lines identified (Federal, State, Municipal, local)
Property lines
Previous Acquisitions (with map number and year of appropriation shown within a dashed circle)
Real Estate subdivision (including lot no.)
Rights of Way
Deed Division Lines - lines that indicate boundaries of two or more deeds, all with the same owner's
       name, that acquired the title to property
ACQUISITION MAPS

The bounds of public thoroughfares shall be labeled

"(Year boundary was created) highway boundary,"
"(Year boundary was created) arterial boundary"
"county road boundary" “town highway boundary” (possible boundaries of county or town roads)
"street boundary" (usually boundaries of village or city streets)

Sometimes the bounds may be delineated differently from the above if the jurisdictional municipality so desires.

Each of the above references (on the delineation only) may be augmented with identifying information such as:

Highway Boundary (Former Great Western Turnpike, 1801)
Highway Boundary (Former Utica-Waterville, Plank Road, 1848)

The same language will be used in the description, when a full description is used.

Survey and Appropriation Features

1. Survey Baseline *

Baseline labeled, (Year Baseline was established) Survey Baseline (example “2001 Survey Baseline”)
Bearing
Tick marks and stationing (at least two tick marks on the map should be stationed)
Enough baseline angle points to contain the mapping limits of the parcel
Label each baseline angle point with the corresponding station
(if required, show identifying prefix letters on stationing of baseline)

* The Survey Baseline will be used unless otherwise directed by the Regional Land Surveyor.

2. Center Line of Proposed Improvement

Show center line of proposed improvement for existing and/or proposed roadway and center lines of proposed improvements for any proposed and/or existing ramps with at least two tick marks stationed. (if required, show identifying prefix letters on stationing of centerline)

3. ROW Taking Line

The ROW Taking Line or proposed highway boundary will always have a distance and bearing unless it lies along an existing geographic line, such as property line, existing highway boundary, bank of stream, etc. Bearings will be shown in degrees, minutes and to the nearest second. Distances between angle points in the proposed highway boundary will be to the nearest hundredth of a foot. Distances that intersect existing highway boundaries, property lines, or other geographic line will be to the nearest foot(±) or at the Regional Land Surveyor’s discretion. Refer to Chapter 21 of the Highway Design Manual and Appendix 14 of the Project Development Manual for proper line symbology.
ACQUISITION MAPS

4. Reputed Owners Name

This is the name as it appears on the title reference. The words “Reputed Owner” must appear below the owner’s name to alleviate the need to change a map when there is a simple change in property ownership. However, in instances when only a portion of the subject property is conveyed a map change would be necessary.

5. Point of Beginning

This is the point where a parcel description would begin if a full description was used. Also a Point of Commencing is used, if needed, to tie the point of beginning into a physical feature such as property line, intersecting road, culvert, etc.

6. Stations and Offsets

Stations and offsets from the project baseline are the highest order of control in the determination of acquisition locations. Angle points in the proposed taking line are shown to the nearest hundredth of a foot. Stations and offsets on existing property lines and existing highway boundaries should be shown to the nearest foot(±) or at the Regional Land Surveyor's discretion.

7. Parcel Dimensions

They are needed along property lines, stream edges, existing highway boundaries or any lines that form part of the parcel perimeter. Distances should be shown to the nearest foot(±) or at the Regional Land Surveyor's discretion.

8. Map and Parcel number

Map and parcel number to be shown in a circle of at least 5/8” diameter, with an M and P shown before the corresponding numbers and the type of taking shown outside of the circle.

9. Area of each parcel

Are to be placed adjacent to each map and parcel circle. Area shall be shown in Square Feet, to the nearest foot (±), up to 1 Acre, any area greater than 1 Acre will be shown as Acres, to 3 decimal places (±).

10. Area of Parcels Underwater

Show for parcels that have a portion of the area being acquired underwater. Use accuracies indicated in item 9 above, such as:

Total Area = ___ ± Sq. Ft. of which _____ ± Sq. Ft. is underwater.
Total Area = ___ ± Acre of which _____ ± Sq. Ft. is underwater.
ACQUISITION MAPS

11. **Highway destination**

Show with a destination name and direction arrow, such as TO FORT ANN →

12. **Reservation and/or "Subject To" data**

When a utility line location is known and there is an easement for the utility line, depict the location of the Utility Line on the map and label the utility line with a statement such as:

EXISTING UNDERGROUND *(indicate owner of the pipe line)* GAS LINE

The limits of the easement will be depicted on the map and labeled with a statement such as:

____ FEET WIDE RIGHT OF WAY.

Also the distance from the utility line to both sides of the Right of Way will be depicted separately.

If there is no filed easement depict the location of the Utility Line on the map and label the utility line with a statement such as:

EXISTING UNDERGROUND *(indicate owner of the pipe line)* GAS LINE
5.10 **Insert Sketch (Element 4)**

An insert sketch is used for those maps where it is difficult to show enough surrounding geographic features on the delineation to enable the parcel to be readily located on the ground, and within the claimant's property. The general location of the sketched area should be further identified by a reference distance (usually scaled) from the point of beginning to an intersecting highway or property line. A reduction of the delineation or small scale map such as U.S.G.S. is not acceptable. The sketch should contain the following data:

1.) North Arrow (no reference)
2.) Parcel Number in a circle
3.) Delineation of Parcel Area
4.) Point of beginning - referenced to an existing feature such as a stream, intersecting road, etc.
5.) Geographical features such as Hamlets, waterways, streets, etc.
6.) Centerline of Proposed Improvements including ramps and intersecting roads.
7.) Reputed Owners' Name
8.) Abutting Property Owners' Names
9.) Political Subdivision and Great Lot Line identified

**Items not required on the insert sketch:**

1.) Map Number
2.) Type of Appropriation
3.) Baseline
ACQUISITION MAPS

5.11  **Special Clauses (Element 5)**

5.11.1  **Supersede Note (Element 5a)**

The purpose of a Supersede Note is to call attention to the fact that a map has been revised after filing in the Department of Transportation, but prior to filing in the County Clerk's Office.

When a Revised (R-1, R-2, etc.) map is prepared to change a map that has been officially filed in the Department of Transportation after July 30, 1996, the last phrase in the supersede note should read "..., which was filed in the Department of Transportation on (insert date)."

When such is necessary, a Supersede Note is placed on the revised map and on all new maps which are required. Said note is to be placed at the top of the Description Sheet or Signature Sheet of the map. The entire note will be typed in Capital Letters.

In composing a Supersede Note, the question which the scrivener should ask himself, and which is the information desired to be contained in the Supersede Note, is "WHAT MAP AND PARCEL OR MAPS AND PARCELS (REVISED and/or NEW) DOES IT TAKE TO ACTUALLY COVER THE ORIGINAL MAP, NO MORE-NO LESS": then the Supersede Note can be written accordingly.

The Map number of a Supersede Map is the same as the original number with R-1 added. If further revisions are required, use R-2, R-3 sequentially.

Parcel Numbers dropped from a revised (R-1) Map cannot be used again.

Following are examples of Supersede Notes:

a.  **THIS MAP NO. 10 R-1, PARCEL NO. 10, SUPERSEDES MAP NO. 10, PARCEL NO. 10, CERTIFIED COPY OF WHICH WAS FILED IN THE OFFICE OF THE DEPARTMENT OF TRANSPORTATION ON JANUARY 5, 2001.**

b.  **THIS MAP NO. 11 R-1, PARCEL NO.11, TOGETHER WITH MAP NO. 10 R-1, PARCEL NO. 10 AND MAP NO. 60, PARCEL NO. 62, SUPERSEDES MAP NO. 11, PARCEL NO. 11, CERTIFIED COPY OF WHICH WAS FILED IN THE OFFICE OF THE DEPARTMENT OF TRANSPORTATION ON FEBRUARY 3, 2001.**


See Sample Map in Appendix “Q-3”
5.11.2 Permanent Easement Preambles (Element 5b)

In preparing a permanent easement preamble, additional insert language is required to describe the purpose for which the parcel is to be taken and will be used.

From the following citation, a great deal of importance rests on the description of the rights to be appropriated.

"It is not enough in a proceeding to condemn an interest in land for public purposes to describe the interest sought to be acquired so vaguely as to leave it dependent upon the undisclosed opinion of the condemning party as to the quantum of the interest which it may be deemed necessary to take. (Bell Telephone Company v. Parker, 187 N.Y. 299.)"

1) Standard Permanent Easement Preamble

A caption specifying the type and purpose of the easement acquisition is placed at the top of the description sheet or the signature sheet. The standard permanent easement preamble is as follows:

To be used on Maps with Full Descriptions

“A permanent easement to be exercised in, on and over the property above delineated for the purpose of constructing, reconstructing and maintaining thereon.... (Describe structure as per inserts) in and to all that (those) piece (s) or parcel (s) of property designated as Parcel No.(s)___, as shown on the accompanying map and described as follows.”

To be used on Maps with Abbreviated Descriptions

“A permanent easement to be exercised in, on and over the property above delineated for the purpose of constructing, reconstructing and maintaining thereon.... (Describe structure as per inserts) in and to all that (those) piece (s) or parcel (s) of property designated as Parcel No. (s) , as shown on the accompanying map.”

See Sample Maps in Appendices “Q - 4” and “Q -8”

The most common insert language specifying the purpose for the easement is provided as follows:

CAPTION:
PERMANENT EASEMENT FOR DRAINAGE DITCH

INSERT:
“... a drainage ditch and appurtenances ...”
or

INSERT:
“... a drainage ditch and drainage structures, together with appurtenances, ..."
ACQUISITION MAPS

CAPTION:
PERMANENT EASEMENT FOR STREAM CHANNEL

INSERT:
"... a stream channel and appurtenances ..."

CAPTION:
PERMANENT EASEMENT FOR STREAM CHANNEL AND DRAINAGE

INSERT:
"... a stream channel, drainage ditch and drainage structures, together with appurtenances ..."

CAPTION:
PERMANENT EASEMENT FOR DRAINAGE PIPELINE

INSERT:
"... a drainage pipeline and appurtenances ..."

CAPTION:
PERMANENT EASEMENT FOR WATER PIPELINE

INSERT:
"... a water pipeline and appurtenances ..."

CAPTION:
PERMANENT EASEMENT FOR A DIKE

INSERT:
"... a dike and appurtenances ..."

CAPTION:
PERMANENT EASEMENT FOR STREAM CHANNEL AND DIKE

INSERT:
"... a stream channel and dike, together with appurtenances, ..."

CAPTION:
PERMANENT EASEMENT FOR A DIKE AND DRAINAGE DITCH

INSERT:
"... a dike, drainage ditch and drainage structures, together with appurtenances, ..."

CAPTION:
PERMANENT EASEMENT FOR HIGHWAY PURPOSES

INSERT:
"... a State Highway, together with such bridges and other facilities in connection therewith as may be deemed necessary by the Commissioner of Transportation ..."
ACQUISITION MAPS

CAPTION:
PERMANENT EASEMENT FOR RETAINING WALL

INSERT:
“... a retaining wall ...”

CAPTION:
PERMANENT EASEMENT FOR BICYCLE PATH AND/OR HIKING TRAIL

INSERT:
“... a bicycle path and/or hiking trail and appurtenances ...”

CAPTION:
PERMANENT EASEMENT FOR TRAFFIC CONTROL DEVICE

INSERT:
“... a traffic control device and appurtenances ...”

CAPTION:
PERMANENT EASEMENT FOR HIGHWAY PURPOSES AND STREAM CHANNEL

INSERT:
“...a State Highway and stream channel, together with such bridges...”

CAPTION:
PERMANENT EASEMENT FOR SNOW FENCE AND PLANTINGS FOR PASSIVE SNOW CONTROL

INSERT:
‘... a snow fence and installing and maintaining plantings for passive snow control. No snow fence or plantings placed and maintained hereunder shall be used to support any other structure or as a billboard or for posting bills or signs.

NOTE: It may be necessary to alter the above Language to fit the instant situation. After the description, or preamble if there is no description, the standard reservation clause is included.
2.) Special Permanent Easement Preambles

Some permanent easements require a more detailed explanation of the rights and limitations which the State wishes to acquire. The most frequently used easements that fall into this category are given below:

a. Railroad Right of Way

When mapping any portion of the operating right of way of a railroad for highway purposes, a permanent easement is usually taken so as not to interrupt the fee title continuity of the railroad.

Operating Railroad Right of Way can be defined as the area that the actual railroad line occupies, which includes the rails, ties, ballast, etc., plus the area supporting the existing railroad facilities, such as embankments, drainage ditches, etc.

When the existing Railroad Right or Way has a defined width for a majority of its length then the existing Right of Way should be used to define the limits of the operating railroad right of way. An example being if the railroad owns a 66 feet Right of Way and the limits of the Operating Railroad Right of Way is determined to be 50 feet wide, we should acquire a Permanent Easement that encompasses the total 66 feet wide Right of Way. If the Railroad owned any property beyond the 66 feet Right of Way, but not considered part of the operating right of way, this property could be acquired in Fee.

See Sample Map in Appendix “Q – 5”

If the parcel is to contain the highway “road section” use the following:

**CAPTION:** PERMANENT EASEMENT FOR HIGHWAY PURPOSES

**FORM:**

"A permanent easement to be exercised in, on and over the property delineated above for the purposes of constructing, reconstructing and maintaining a State Highway, together with such bridges and other facilities in connection therewith as may be deemed necessary by the Commissioner of Transportation, but in a manner which will not interfere with the existing railroad system, and the maintenance and operation thereof. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No.____, as shown on the accompanying map."

**NOTE:** When using a full description add “and further described as follows:"

If the parcel is to consist of easements for drainage ditch, culvert pipe, stream channel or other, use the following:

(CAPTION IS TYPED HERE)

**FORM:**

"A permanent easement to be exercised in, on and over the property delineated above for the purpose of constructing, reconstructing and maintaining thereon... (Describe structure as per Inserts) but in a manner which will not interfere with the existing railroad system, and the maintenance and operation thereof. Such easement shall be exercised in and to all that (those) piece(s) or parcel(s) of property designated as Parcel No(s)____, as shown on the accompanying map."

**NOTE:** When using a full description add “and further described as follows:"
b. Slopes

When the State acquires a permanent easement for slope purposes, the intent is to provide support area for the construction or reconstruction and continued use of the highway facility. Although the State has never intended to limit access by the construction or reconstruction of a slope per se, claims have been made that under the wording of the typical slope easement, the State has the right to subsequently alter the slope to an extent that would make it impossible for the owner to physically exercise the right of access. Accordingly, easement language for slopes must be in simple, direct terms and not of the all-encompassing variety causing undue concern to abutting owners or claims being filed against the State. The following clause is to be utilized, therefore, for the easement caption, preamble, and statement of purpose in appropriations of easements for slopes:

**CAPTION:** PERMANENT EASEMENT FOR SLOPES

**FORM:** "A permanent easement to be exercised in, on and over the property delineated above for the purpose of constructing slopes and appurtenances thereto as established for and by the construction or reconstruction of the project herein identified, and for the repair and maintenance of such slopes and appurtenances thereto. Such easement shall be exercised in, on and over all that piece or parcel of property designated as Parcel No.________, as shown on the accompanying map."

**NOTE:** When using a full description add “and further described as follows:"

After the Description of the Parcel, the standard reservation clause is included.
c. **Scenic Enhancement**

There are occasions when property is taken for the purpose of restoring, preserving or enhancing natural or scenic beauty. When a permanent easement is used to provide for continued agricultural use or where the use of land will be restricted in order to preserve a distant view, an extensive easement description must be used. Please note that all eight clauses are to be used, however, the ninth clause is optional and is used only when applicable.

**CAPTION:** PERMANENT EASEMENT FOR THE RESTORATION, PRESERVATION AND ENHANCEMENT OF NATURAL OR SCENIC BEAUTY

**FORM:** "A permanent easement to be exercised in, on and over the property delineated above for the purpose of restoring, preserving and enhancing natural or scenic beauty together with the concurrent rights at all times for the purpose of:

1) clearing, grubbing, trimming, pruning, cutting, thinning, transplanting, spraying, demolishing, moving any and all brush, weeds or trees, ashes, debris, trash, refuse, garbage, offal, sawdust, ore piles, slag heaps, junk automobiles or parts thereof, abandoned or discarded farm implements, machinery or parts thereof, scrap metal, or any other unsightly or offensive object, building, article or structure now or hereafter grown, kept, erected, set, placed or existing upon the land which is not specifically permitted herein;

2) restricting, regulating and prohibiting the construction, reconstruction, maintenance and erection of any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designated, intended or used to advertise or inform, except as specifically permitted herein;

3) restricting and prohibiting the dumping, depositing, collecting, placing, storing or stockpiling of any ashes, trash, refuse, debris, garbage, offal, sawdust, earth for land fill, ore piles, slag heaps, junk automobiles or parts thereof, abandoned or discarded farm implements, machinery or parts thereof, scrap metal or any other unsightly and offensive material which would detract from the purpose herein;

4) restricting, regulating and prohibiting the clearing, grubbing, cutting, pruning, trimming, thinning, removing, transplanting, damaging or destroying of trees or other natural growth or vegetation, except as specifically permitted herein;

5) restricting, regulating and prohibiting the use of the land as a source for obtaining borrow material, for stripping of topsoil, for open mining, quarrying, oil and gas exploration, operation and production or the emplacement thereon of machinery for such purposes, except where such use is existing at the time of acquisition of this easement by the People of the State of New York but such use shall not be expanded nor enlarged unless upon written application to and approval from the Commissioner of Transportation or authorized representative;
6) restricting, regulating and prohibiting any interference with the natural physical contours and topography of the land except that commonly associated with normal and local agricultural methods, practices and techniques as specifically permitted herein and further restricting and prohibiting the defacement or despoliation of the land by any action not consistent with the purpose herein;

7) restricting and prohibiting the use of the land as the site for buildings, structures, house trailers, mobile homes or any portable living quarters, except as specifically permitted herein;

8) restricting, regulating and prohibiting the construction, reconstruction and erection of transmission towers, wire lines, microwave relay structures and appurtenant facilities for the transmitting of messages, images, heat or power unless upon written application to and approval from the Commissioner of Transportation or authorized representative, except where such use is existing at the time of acquisition of this easement by the People of the State of New York but such use shall not be expanded or enlarged unless upon written application to and approval from the Commissioner of Transportation or authorized representative:

(Optional)

9) planting, fertilizing, pruning and spraying of trees, shrubs, bushes, ground covers or other vegetation and for sodding and seeding;

To effectuate and carry out the purpose of this easement, there is also acquired herein the permanent right and privilege at all times of the State, its agents and contractors only, to enter upon the land for the making of periodic inspections, to remove there from any and all material cleared, grubbed, trimmed, pruned, thinned, cut or torn down, to prevent soil erosion by riprapping slopes and embankments where deemed necessary by the Commissioner of Transportation and to do any and all other things and acts consistent with the public interest and the purpose to be effectuated herein.

Nothing in this easement confers, is intended to confer, or should be construed as conferring upon the general public the right to enter the area for any purpose whatsoever. Reserving, however, to the owner successors and assigns, the right and privilege of using the property, provided the exercise of that right does not interfere with or prevent the use and exercise of the easement right as above described and defined, specifically reserving and permitting the owner of the property, successors and assigns, the right and privilege of:

A. Erecting and maintaining the necessary number of signs required by law for posting the property against trespass, hunting or fishing and one sign of not more than ________ square feet in size to advertise the sale, lease of the property or the sale and/or manufacture of any goods, products or services incidental to the permitted use and occupation of the land; any use of the land for advertising or informational purposes other than the above permitted uses, existing at the time of acquisition of this easement by the People of the State of New York, shall be terminated by ______ INSERT DATE ______.
ACQUISITION MAPS

B. Using and occupying the land for the following purposes:
   a. General crop or livestock farming, including normal maintenance practices for orchards, vineyards, small fruit plantings, meadows, pastures and crop lands and also including maintenance and repair of buildings and structures incidental to such use except that no additional farm buildings, dams, irrigation ditches, structures, structural alterations, appurtenances or improvements not existing upon the land at the time of acquisition of this easement by the People of the State of New York shall be constructed unless written application is made to the Commissioner of Transportation or authorized representative and a permit is issued therefore;

   b. Any use not specified, prohibited, regulated or restricted herein which existed upon the land above delineated at the time of acquisition of this easement by the People of the State of New York except that such use shall not be expanded or enlarged upon nor may any buildings, structures or appurtenances be erected or structural alterations made unless written application is made to the Commissioner of Transportation or authorized representative and a permit is issued therefore.

Such easement shall be exercised in, on and over all that piece or parcel of property designated as Parcel No. __, as shown on the accompanying map."

NOTE: When using a full description add “and further described as follows:"
No standard reservation clause is required for scenic enhancement easements.

d. Junkyard and Scrap Metal Processing Control

When a decision has been made to screen a junkyard or scrap metal processing plant from view, the permanent easement language quoted below is used. Please note that in the caption and the third line of the easement, "junkyard" or "scrap metal processing facility" or both may be used as the case may be.

CAPTION: A PERMANENT EASEMENT FOR SCREENING (A JUNKYARD) (AND) (A SCRAP METAL PROCESSING FACILITY) BY GRADING, PLANTINGS AND FENCING

FORM: "A permanent easement to be exercised in, on and over the property delineated above for the purpose of screening (a junkyard) (and) (a scrap metal processing facility) so as not to be visible from the main traveled way of a public highway. In furtherance of such purpose the following rights may be exercised by the Commissioner of Transportation: (1) to grade and maintain the land; (2) to plant and maintain trees, shrubs, or vines (hereinafter collectively referred to as "plantings") therein; (3) to construct and maintain a fence and appurtenances thereon; (4) to enter upon this property at all times for such purposes. No grading, fencing or plantings placed and maintained hereunder shall be used to support any other structure or as a billboard or for posting bills and such screening may not be removed or otherwise disturbed except by written permission of the Commissioner of Transportation." 

The standard reservation clause is included.
ACQUISITION MAPS

e. **Sight Distance**

When safety considerations call for control of sight distance, an easement in the following form is used.

**CAPTION: PERMANENT EASEMENT FOR SIGHT DISTANCE**

**FORM:** “A permanent easement to be exercised in, on and over the property delineated above for the purpose of removal of obstructions and the improvement of sight distances for Highway purposes, with the right at all times to enter upon the premises to cut, trim, move, demolish and remove any and all brush, trees or other growth, object, article, building or structure, now or hereafter growing, kept, erected, set, placed or existing and to prevent the planting or placing thereof on such area which should be removed for such purposes, in and to all that piece or parcel…”

The standard reservation clause is included.

f. **Flooding and Overflowing**

In a situation where it is known that drainage will at times overflow and cause flooding, the following easement is used.

**CAPTION: PERMANENT EASEMENT FOR FLOODING AND OVERFLOWING**

**FORM:** "A permanent easement to be exercised in, on and over the property delineated above for the purpose, and with the right and privilege at all times, of discharging, or causing or permitting the discharge of drainage and water from any cause, source or direction and in any amount on, and thereby causing the flooding and overflowing of the property; together with the right of free flow of said drainage and water on, over, across and through the contours of said property including ditches and structures, into that portion of ____________ Creek abutting such property, in and to all that piece or parcel.

The standard reservation clause is included.
g. Wetlands Mitigation

To be used in a situation where property is required to mitigate for the loss of wetlands on a project and therefore the Department of Transportation will appropriate land that is already wetland to replace the loss using Section 10 Subdivision 43 or Section 21 or Section 22 of the Highway Law. (See Section 5.16 for descriptions of Laws)

CAPTION: PERMANENT EASEMENT FOR WETLANDS

FORM: “A permanent easement to be exercised in, on, over, under, through and across the property delineated above for the purpose of permanently preserving and maintaining the wetland character of the property; together with the right of ingress, egress and regress at all times over, upon and across said property; and every right, privilege and authority which now or hereafter may be deemed necessary by The People of The State of New York, their successors or assigns, for the complete enjoyment of the easement. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No.____, as shown on the accompanying map."

NOTE: When using a full description add “and further described as follows:”

Under such easement, the following acts, uses and practices are prohibited:

a. The construction or placement of buildings, structures or improvements of any kind or nature.

b. The dredging, excavation, mining or filling of the property. There is to be no removal of topsoil, sand or other material, nor shall the topography of the property be changed except to protect, maintain or enhance the natural qualities of the property.

c. The flooding or draining of the property.

d. The dumping or accumulation of trash, garbage, sewage, chemical waste or other material on the property.

Pursuant to the U.S Army Corps of Engineers request the following note must be added to any Wetlands Mitigation Map before they will issue a Section 404 Permit.

NOTE:
This property is acquired as a Conservation Area to mitigate for wetlands impacted by the proposed construction or reconstruction of the __________________________ Project. This conservation area is a condition of the United States Army Corps of Engineers, Section 404 Permit. The United States Army Corps of Engineers should be consulted if the use or ownership of this property is expected to change.

The standard reservation clause is included.
5.11.3 Temporary Easement Preambles (Element 5c)

Temporary Easements should have one of the following three conditions present: 1) the value of the rights to be acquired is in excess of $2,500, 2) the area to be used is critical to the construction or reconstruction contract, or 3) the owner of the property refuses voluntary entry onto the property. Temporary Easement parcels will be combined with fee and permanent easement parcels. In special circumstances the Regional Land Surveyor may require separate Temporary Easement maps be made.

1.) Standard Temporary Easement Preamble

“A temporary easement to be exercised in, on and over the property delineated above for the purpose of ... (insert purpose) ... for use and exercisable during the construction or reconstruction of the highway and terminating upon the approval of the completed work, unless sooner terminated if deemed no longer necessary for highway purposes and released by the Commissioner of Transportation or other authorized representative acting for The People of The State of New York or its assigns. Such easement shall be exercised in and to all that (those) piece(s) or parcel(s) of property designated as Parcel No. (s) _____, as shown on the accompanying map.”

NOTE: When using a full description add “and further described as follows:”

The above language is to be followed by the standard reservation clause.

See Sample Map in Appendix “Q – 6”

Appropriate Insert language specifying the purpose for the easement is provided as follows:

CAPTION:
TEMPORARY EASEMENT FOR HIGHWAY DETOUR

INSERT:
“... constructing, reconstructing and maintaining a highway detour and appurtenances...”

CAPTION:
TEMPORARY EASEMENT FOR ACCESS ROAD

INSERT:
“. constructing, reconstructing and maintaining an access road and appurtenances ...”

CAPTION:
TEMPORARY EASEMENT FOR RAILROAD DETOUR

INSERT:
“...constructing, reconstructing and maintaining a railroad detour and appurtenances...”
ACQUISITION MAPS

CAPTION:
TEMPORARY EASEMENT FOR RAILROAD SWITCH

INSERT:
“... constructing, reconstructing and maintaining a railroad switch on new location and grade...”

CAPTION:
TEMPORARY EASEMENT FOR FILLING ABANDONED STREAM CHANNEL

INSERT:
“... filling an abandoned stream channel ...”

CAPTION:
TEMPORARY EASEMENT FOR FILLING ABANDONED STREAM CHANNEL, GRADING AND SEEDING

INSERT:
“... filling an abandoned stream channel; ALSO for grading and seeding the area...”

CAPTION:
TEMPORARY EASEMENT FOR EXCAVATING AND CLEARING STREAM CHANNEL

INSERT:
“...excavating and clearing a stream channel and appurtenances...”

CAPTION:
TEMPORARY EASEMENT FOR FILLING A LOW AREA

INSERT:
“... filling a low area ...”

CAPTION:
TEMPORARY EASEMENT FOR WORK AREA

INSERT:
"... a work area in connection with the construction or reconstruction of the highway and appurtenances ...”

CAPTION:
TEMPORARY EASEMENT FOR EXCAVATING AND REMOVING EARTH AND OTHER MATERIAL AND WORK AREA

INSERT:
"... for the purpose and the exclusive right to excavate and remove earth and other material and a work area in connection with the construction or reconstruction of the highway and appurtenances "

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ACQUISITION MAPS

CAPTION:
TEMPORARY EASEMENT FOR EXCAVATING AND REMOVING EARTH AND OTHER MATERIAL

INSERT:
"... for the purpose and the exclusive right to excavate and remove earth and other material..."

CAPTION:
TEMPORARY EASEMENT FOR DEPOSITING AND LEAVING UN SUITABLE MATERIAL

INSERT:
"... depositing and leaving unsuitable material ..."

CAPTION:
TEMPORARY EASEMENT FOR REMOVING UNDERGROUND STORAGE TANKS

INSERT:
"...removal of all or a portion of certain underground storage tanks and appurtenances..."

2) Special Temporary Easement Preambles

Special considerations require that some temporary easements vary from the standard. The most frequently used easements that fall in this category are given below.

a. Removing or Razing Structures

When a portion of a structure protrudes into the area required for a project, provision must be made for the removal of all or a portion of the structure. The decision as to which course to take must be the result of weighing both engineering factors and factors that fall in the realm of the Real Estate Division. From an engineering view point, the factors of integrity of the plan and of safety must be considered. Beyond this, there must be concern for economic factors including the relative differences in acquisition cost, esthetic considerations, and community effects.

Assuming the decision has been made to remove or raze the entire building or structure, a temporary easement in one of the forms below is imposed covering the entire structure and additional area as required for work area.

In the case of a "cutoff" the Temporary Easement map should be prepared but held and not vested until an agreement has been reached with the owner in regard to who is going to actually cut the building - either the claimant or the State.

If the State does the work, only an area big enough for work is needed not the entire remainder of the building. If the owner does the work, no easement is needed.

If only a portion of a building or structure is to be taken, two separate parcels are required. The first parcel limited to the "neat lines" of the portion of the structure to be removed is prepared in the form below. In addition, a second parcel allowing for work area and including sufficient area to close the structure and to disconnect service lines for such things as electricity, water, heat or plumbing is prepared as an easement for work area.
Following is the form of the easement for removing or razing structures:

**CAPTION:** TEMPORARY EASEMENT FOR REMOVING OR RAZING BUILDINGS AND IMPROVEMENTS

“A temporary easement to be exercised in, on and over the property delineated above for the purpose of removing or razing all or a portion of certain buildings and/or improvements located on such property, ALSO, for the implementation of which absolute title is herewith simultaneously to be acquired to the structures or portions thereof, above referred to, lying within said property, and to any material salvaged there from; for use and exercisable during the construction or reconstruction of the hereinafter designated highway and terminating upon the approval of the completed work, unless sooner terminated if deemed no longer necessary for highway purposes, and released by the Commissioner of Transportation or other authorized representative acting for the People of the State of New York, or its assigns. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No._____, as shown on the accompanying map.”

**NOTE:** When using a full description add “and further described as follows:”

The standard reservation clause is included.

b. **Storing Top Soil**

There may be times that top soil is to be stored for a period of time between the grading contract and the paving contract, in which event the storage of such top soil may have to be outside of the limits of the highway right of way. Providing an area for storing top soil is necessary and advance approval is obtained from the Deputy Chief Engineer, the following format shall be used:

**CAPTION:** TEMPORARY EASEMENT FOR STORING TOP SOIL

**FORM:** "A temporary easement to be exercised in, on and over the property delineated above for the purpose of storing top soil thereon, for use and exercisable during the construction or reconstruction of the hereinafter designated highway and terminating upon the approval of the completed work, unless sooner terminated if deemed no longer necessary for highway purposes, and released by the Commissioner of Transportation or other authorized representative acting for the People of the State of New York, or its assigns. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No._____, as shown on the accompanying map.”

The standard reservation clause is included.
c. Junk and Scrap Metal Removal

There may be a time when it is desirable to remove junk and scrap metals from private property.

If the owner of the junk is to retain title to said scrap metals, use Form 1 below. If the State is to acquire title to the junk, use Form 2 below.

Form 1 - "TEMPORARY EASEMENT FOR JUNKYARD REMOVAL"

“A temporary easement to be exercised in, on and over the property delineated above for the purpose of causing the relocating, removal or disposal of any junkyard or scrap metal processing facility located on such property. For use and exercisable during the construction or reconstruction of the hereinafter designated highway and terminating upon the approval of the completed work, unless sooner terminated if deemed no longer necessary for highway purposes, and released by the Commissioner of Transportation or other authorized representative acting for the People of the State of New York or its assigns. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No.______, as shown on the accompanying map.”

NOTE: When using a full description add “and further described as follows:"

Form 2 - "TEMPORARY EASEMENT FOR JUNKYARD REMOVAL"

“A temporary easement to be exercised in, on and over the property delineated above for the purpose of causing the relocation, removal or disposal of any junkyard or scrap metal processing facility located on such property, ALSO, for the implementation of which, absolute title is herewith simultaneously to be acquired to the junk or scrap metal, above referred to, lying within said property. For use and exercisable during the construction or reconstruction of the hereinafter designated highway and terminating upon the approval of the completed work, unless sooner terminated if deemed no longer necessary for highway purposes, and released by the Commissioner of Transportation or other authorized representative acting for the People of the State of New York, or its assigns. Such easement shall be exercised in and to all that piece or parcel of property designated as Parcel No.______, as shown on the accompanying map.”

NOTE: When using a full description add “and further described as follows:"

The standard reservation clause is included.
ACQUISITION MAPS

5.11.4 Reservation Clauses (Element 5d)

Many times it is necessary to preserve a specific right in the property which exists at the time of acquisition. Such action is generally necessary to provide for the permanent occupation and use of all or a portion of the appropriated area for other than highway purposes. The preservation of these rights is accomplished through a reservation or "Subject to" clause.

There is a distinctive difference between a reservation on an acquisition map and the acquisition of a piece of property made "Subject to" any existing easement.

A reservation is used to leave an interest, as specified, to the fee owner.

A "Subject to" clause is used to continue the interest of the owner of an existing easement.

A. Reservation on Fee Appropriations

If a utility company owns the fee to a piece of property which is to be acquired, a "Reservation" can be made to allow such utility company the right to maintain their facilities within all or a portion of the appropriated parcel. When the fee is privately owned and is to be acquired, it may be advisable to allow the private owner to have a water line, sewer line or cattle pass across the parcel through the use of a reservation. There will be times that a municipality owns the fee to a tract of land and some municipal facilities (water, sewerage, storm drainage, etc.) are to remain and cross the new highway, whereas the State is to acquire the fee for highway purposes. Reservations of easements should not be made to the municipality in and to all or a portion of the appropriated parcel for the continued use of the facilities because a municipality has the obligations to maintain such facilities under applicable provisions of law, Section 10 Subdivision 24 of the Highway Law, and therefore is deemed to have the inherent right of entry upon State lands to maintain any such facilities provided they lie within the corporate limits of its jurisdiction.

Reservations of easements may be made to the municipality in and to all or a portion of the appropriated parcel for the continued use of the facilities, when the appropriation is located outside the corporate boundaries of the municipality.

The designer should be consulted before the reservation is composed to insure exactly what rights are to be preserved and what restrictions are required. Everyone preparing property acquisition maps must always be mindful that each reservation must be studied to determine all of the qualifications that are required. Your particular attention is drawn to the multiple variations as set forth in these instructions.
ACQUISITION MAPS

The following miscellaneous notes relative to reservations are called to your attention:

1. The inclusion of a "reservation" clause (or "subject to" clause) requires a variation in the language of the "Statement of Necessity and Authority"

2. Electric Lines ... include power, telephone, telegraph, television lines, fiber optics, wave guide etc.

3. Pipe lines ... include fluid, liquid or gas lines ... or specify water, gasoline, oil, sewage, natural gas, liquid petroleum gas, etc.

See Sample Map in Appendix “Q – 3”

The most common situations involving reservations are listed below:

1. AERIAL ELECTRIC LINES ACROSS FEE WITH ACCESS - with standard restrictions plus restriction of placement of poles, towers, supports or other structures within an established distance of any edge of the highway pavement.

2. AERIAL ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restriction on placement of poles, towers, supports or other structures within the controlled access limits of the highway.

3. AERIAL ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing no poles, towers, supports or other structures shall be placed within the controlled access limits of the highway.

4. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITH ACCESS - with standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

5. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restrictions on placement of manholes, vents or other structures within the controlled access limits of the highway.

6. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

7. PIPE LINES ACROSS FEE WITH ACCESS - with standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

8. PIPE LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restriction on placement of manholes, vents or other structures within the controlled access limits of the highway.
ACQUISITION MAPS

9. PIPE LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

10. COMBINED AERIAL AND SUBTERRANEAN RESERVATIONS

11. CATTLE PASS ACROSS FEE WITH ACCESS (on new locations)

12. CATTLE PASS ACROSS FEE WITHOUT ACCESS

13. RAILROAD RESERVATIONS

14. SPECIAL RESERVATIONS
   a. Pedestrian Access
   b. Driveway Access
ACQUISITION MAPS

AERIAL ELECTRIC LINES ACROSS FEE WITH ACCESS

With standard restrictions plus restriction on placement of poles, towers, supports or other structures within an established distance of any edge of the highway pavement.

RESERVING, however, to the owner of the property designated as Parcel No.(s)____above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing that no pole, tower, support or other structure shall be placed within_____feet of any edge of the highway pavement, and further providing that no change in the clearance over the highway or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

If the reservation covers an entire parcel, no additional data is necessary

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, over and across, all that (those) portion(s) of Parcel No.(s)______, which is within_____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as______FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

AERIAL ELECTRIC LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions plus restriction on placement of poles, towers, supports or other structures within (the controlled access limits of the highway) or (an established distance of any edge of the highway pavement).

RESERVING, however, to the owner of the property designated as Parcel No.(s) above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing that no pole, tower, support or other structure shall be placed within (the controlled access limits of the highway) or (_____feet of any edge of the highway pavement), and further providing that no change in the clearance over the highway or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulder and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

If the reservation covers an entire parcel, no additional data is necessary.

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, over and across, all that (those) portion(s) of Parcel No. (s) _____which is within _____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as _FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
With standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

RESERVING, however, to the owner of the property designated as Parcel No. (s) above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing no manhole, vent or other structure shall be placed at or above the surface of the ground within ___ feet of any edge of the highway pavement, and further providing that no change in the grade or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

If the reservation covers an entire parcel, no additional data is necessary

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s) _____ which is within ___ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as _____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions plus restrictions on placement of manholes, vents or other structures within the controlled access limits of the highway.

RESERVING, however, to the owner of the property designated as Parcel No.(s) above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing no manhole, vent or other structure shall be placed at or above the surface of the ground within ______ feet of any edge of the highway pavement and further providing that no change in the grade or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

If the reservation covers the entire parcel, no additional data is necessary.

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s) which is within _____ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

RESERVING, however, to the owner of the property designated as Parcel No.(s) ____above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing that no manhole, vent or other structure shall be placed at or above the surface of the ground within the controlled access limits of the highway and further providing that no change in the grade or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the area lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

If the reservation covers an entire parcel, no additional data is necessary.

If the reservation affects only a portion of a parcel provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s) _____which is within _____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_____FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

PIPE LINES ACROSS FEE WITH ACCESS

With standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

RESERVING, however, to the owner of the property designated as Parcel No.(s) ____above, and such owner's successors or assigns a permanent right, privilege and easement to transmit fluids, liquids or gases ... or transmit (water), (sewage), (gas) ...* and for such purposes construct, reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing no manhole, vent or other structure shall be placed at or above the surface of the ground within ____feet of any edge of the highway pavement, and further providing that no change in the grade or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.

If the reservation covers an entire parcel, no additional data is necessary.

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No.(s) ________which is within ____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as____FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

PIPE LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions plus restriction on placement of manholes, vents or other structures within the controlled access limits of the highway.

RESERVING, however, to the owner of the property designated as Parcel No.(s)____above, and such owner's successors or assigns a permanent right privilege and easement to transmit fluids, liquids or gases ... or transmit (water), (sewage), (gas) ...* and for such purposes construct, reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing that no manhole, vent or other structure shall be placed at or above the surface of the ground within____feet of any edge of the highway pavement, and further providing, that no change in the grade or in the alignment or location of such facilities shall be made, or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

* Modify type of use to meet your specific situation.  An example being we should not reserve the right to transmit sewage when only a gas line exists.

If the reservation covers an entire parcel, no additional data is necessary.

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s)_______ which is within _____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as______FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

PIPE LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

RESERVING, however, to the owner of the property designated as Parcel No.(s)___ above, and such owner's successors or assigns a permanent right, privilege and easement to transmit fluids, liquids or gases ... or transmit (water), (sewage), (gas) ...* and for such purposes construct, reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents, and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; providing no manhole, vent or other structure shall be placed at or above the surface of the ground within the controlled access limits of the highway, and further providing that no change in the grade or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.

If the reservation covers an entire parcel, no additional data is necessary

If the reservation affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s)________ which is within _____ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as____FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

COMBINED AERIAL AND SUBTERRANEAN RESERVATIONS

Any combination of rights for aerial and subterranean easements may be included in one reservation by using the applicable wording which will describe the rights reserved and limitations required.

RESERVING, however, to the owner of the property designated as Parcel No.(s) __ above, and such owner's successors or assigns a permanent right, privilege and easement to transmit electricity or messages by means of electricity and to transmit fluids, liquids or gases,* and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances, and a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances, as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; ...(insert here any additional restrictions on placement of facilities) ... providing, however, that no change in the clearance over the highway, or in the grade below the highway, or in the alignment or location of such facilities shall be made or additional facilities constructed which will interfere with the highway and its appurtenances or other facilities of the State of New York.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.

SPECIAL RESTRICTION-CONTROLLED ACCESS

In every acquisition for a controlled access highway, the following special qualification must be added after the reservation paragraph:

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulder, it shall be done only upon a written permit from and upon condition specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

If the reservation affects only a portion of the parcel continue as follows:

Such easement shall be exercised in and to, under, over and across, all that (those) portion(s) of Parcel No. (s)_________which is within______feet of the center of the EXISTING (insert as stated on the map) LINE, and which is within _______feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_______ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

CATTLE PASS ACROSS FEE WITH ACCESS

RESERVING, however, to the owner of Parcel No._______, and such owner's successors and assigns, but only to the extent which will not interfere with the use of the property for highway purposes, the right, privilege and easement of using the hereinafter described portion of Parcel No._______ to pass cattle and farm implements, and for such purpose to maintain and operate trails, fencing and other appurtenances as may be deemed necessary by such owner and such owner's successors and assigns for the proper operation thereof, except as may be hereinafter limited.

Further providing that such easement rights shall not extend to the paved portions of the highway, and that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the culverts underneath the highway and to the areas lying between the outside edges of the highway shoulders and the highway boundary, with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes.

Such easement shall be exercised in and to, under and across, all that piece or parcel of property designated on the accompanying map as "Cattle Pass Right of Way", being a strip of land ______ feet in width extending from the ______ side of Parcel No._______ to the ______ side of Parcel No._______ . The _______ line of said strip runs in a straight line from a point on the ______ boundary of Parcel No._______ which is _______ feet _______ , measured at right angles, from baseline station _______ to a point on the ______ boundary of Parcel No._______ which is _______ feet _______ , measured at right angles, from baseline station _______. The _______ line of said strip runs in a straight line from a point on the ______ boundary of Parcel No._______ which is _______ feet _______ , measured at right angles, from baseline station _______ to a point on the ______ boundary of Parcel No._______ which is _______ feet _______ , measured at right angles, from baseline station _______.

ALSO:

There shall be no access between said strip and adjoining property except a right of access is reserved to the owner of Parcel No._______ and such owner's successors and assigns at the places of entry and exit shown on said map and described as follows: On the ______ side of Parcel No._______, the Place of Entry and Exit is along the ______ boundary of Parcel No._______ between a point which is _______ feet _______ , measured at right angles, from baseline station _______ , and a point which is _______ feet _______ , measured at right angles, from baseline station _______; and on the east side of Parcel No._______, the Place of Entry and Exit is along the easterly boundary of Parcel No._______ between a point which is _______ feet _______ , measured at right angles, from baseline station _______, and a point which is _______ feet _______ , measured at right angles, from baseline station _______.

Said easement and access rights shall terminate at such time as the property immediately adjoining the westerly side of the westerly Place of Entry and Exit is not in the same ownership as the property immediately adjoining the easterly side of the easterly Place of Entry and Exit.
ACQUISITION MAPS

RAIL RESERVATION

When appropriating railroad property in fee, outside of the operating Right of Way, no reservation is required.

When acquiring the operating Right of Way in fee, a basic reservation is required as follows:

RESERVING, however, to the owner of the property designated as Parcel No.____, and its successors and assigns, the right, privilege and easement to construct, reconstruct, maintain and operate such railroad facilities as it may, from time to time, deem necessary for the operation of its railroad system; providing, however, that no change in grade or alignment of the existing railroad facilities shall be made, or additional facilities constructed, which will interfere with the highway, bridges or other facilities of the State of New York.

When the railroad operating Right of Way is to be acquired in fee—without access—and the project is "at grade" or "highway over railroad," the following must be added to the above basic reservation:

ALSO RESERVING the right of access to and from such owner's abutting lands only for the purposes of the right, privilege and easement; subject to the condition that should the property designated as Parcel No.____ no longer be used for operating railroad right of way pursuant to an order of the Public Service Commission, the Interstate Commerce Commission, or other constituted authority, this right, privilege, easement and right of access shall cease and determine.

When the railroad operating Right of Way is acquired in fee—without access—and the project is "railroad over a highway," the following must be added to the basic reservation:

ALSO providing that the right of ingress, egress, and regress for the purpose of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance or operation of such facilities requires crossing, blocking, or barricading the highway pavement or shoulders, it shall be done only upon a written permit from, and upon conditions specified by, the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

SUBJECT TO the condition that should the property designated as Parcel No.____ no longer be used for operating railroad right of way pursuant to an order of the Public Service Commission, the Interstate Commerce Commission, or other constituted authority, this right, privilege, easement and right of access shall cease and determine.
ACQUISITION MAPS

SPECIAL RESERVATIONS

There will be situations when it is considered advisable to reserve certain interests in property to private owners which are not covered by the preceding instructions.

The most common special reservations are as follows:

Pedestrian Access

When it is determined that pedestrians may be allowed access to a highway which prohibits vehicular access, a reservation may be provided as follows:

RESERVING, however, to the owner of the property abutting Parcel No. (6) on the (west), and such owner's successors or assign, the right of pedestrian access to and from only that portion of the highway right of way devoted to pedestrian use.

Driveway Access

When it is determined that vehicular access is to be allowed at a specific location along a non access highway, the "PLACE OF ENTRY AND EXIT" is to be shown on the delineation and the right is reserved as follows:

RESERVING, however, to the owner of the property abutting Parcel No. (20) on the (east), and such owner's successors or assigns, the right of access to and from the highway, at the PLACE OF ENTRY AND EXIT for access purposes on the (east) side of (Argyle-Scotland, S. H. No. 69), with the width of (20) feet along the highway boundary and the centerline of such place of entry and exit being at right angles to baseline station (77+24).

Reservations on Permanent Easement Appropriations

Permanent easements require a reservation of rights remaining to the owner of an interest in the appropriated parcel.

The standard easement reservation reads as follows:

RESERVING, however, to the owner of any right, title or interest in and to the property above delineated, and such owner's successors or assigns, the right of access and the right of using said property and such use shall not be further limited or restricted under this easement beyond that which is necessary to effectuate its purposes for, and as established by, the construction or reconstruction and as so constructed or reconstructed, the maintenance, of the herein identified project.
ACQUISITION MAPS

When there are Fee Parcels and Permanent Easement Parcels depicted on the same map the standard easement reservation reads as follows:

RESERVING, however, to the owner of any right, title or interest in and to the property delineated as Parcel No(s). above, and such owner's successors or assigns, the right of access and the right of using said property and such use shall not be further limited or restricted under this easement beyond that which is necessary to effectuate its purposes for, and as established by, the construction or reconstruction and as so constructed or reconstructed, the maintenance, of the herein identified project.

When there are Fee Parcels, Permanent Easement Parcels and Temporary Easement Parcels depicted on the same map the following standard easement reservations will be used:

Following the Permanent Easement Preamble:

RESERVING, however, to the owner of any right, title or interest in and to the property delineated as Parcel No(s). above, and such owner's successors or assigns, the right of access and the right of using said property and such use shall not be further limited or restricted under this easement beyond that which is necessary to effectuate its purposes for, and as established by, the construction or reconstruction and as so constructed or reconstructed, the maintenance, of the herein identified project.

Following the Temporary Easement Preamble:

RESERVING, however, to the owner of any right, title or interest in and to the property delineated as Parcel No(s). above, and such owner's successors or assigns, the right of access and the right of using said property and such use shall not be further limited or restricted under this easement beyond that which is necessary to effectuate its purposes for the construction or reconstruction of the herein identified project.

NOTE: Subdivision 3 of Section 30 of the Highway Law gives express right of access on drainage easement reservations.

Exceptions to the above are:

Permanent easement acquisitions within railroad operating right of way require the following reservation:

Such easement shall not limit or restrict the right of the owner of the property above delineated, and such owner's successors or assigns, to construct, reconstruct, maintain and operate such railroad facilities as said owner may, from time to time, deem necessary for the operation or improvement of its railroad system. Provided, however, that no change in the grade or alignment of the existing railroad facilities shall be made, or additional facilities constructed, which will interfere with the highway, bridges or other facilities of the State of New York.
ACQUISITION MAPS

When there are Fee Parcels and Permanent Easement Parcels depicted on the same map and within the railroad operating right of way the following reservation is required:

Such easement shall not limit or restrict the right of the owner of the property delineated as Parcel No(s). above, and such owner's successors or assigns, to construct, reconstruct, maintain and operate such railroad facilities as said owner may, from time to time, deem necessary for the operation or improvement of its railroad system. Provided, however, that no change in the grade or alignment of the existing railroad facilities shall be made, or additional facilities constructed, which will interfere with the highway, bridges or other facilities of the State of New York.

Reservations on Temporary Easement Appropriations

Temporary Easements require a reservation of rights remaining to the owner of the appropriated parcel.

The standard easement reservation reads as follows:

RESERVING, however, to the owner of any right, title or interest in and to the property above delineated and such owner's successors or assigns, the right of access and the right of using said property and such use shall not be further limited or restricted under this easement beyond that which is necessary to effectuate its purposes for the construction or reconstruction of the herein identified project.

Exception to the above is:

On maps that have both a permanent easement appropriation and a temporary easement appropriation a separate reservation clause is required for each appropriation as indicated in Section B above.
5.11.5 "Subject To" Clauses (Element 5e)

A "Subject to" is used to continue the interest of the owner of an existing easement across fee appropriations and is also necessary on a Transfer of Jurisdiction Map.

See introductory paragraph under Section 5.11.4

When a right to use a property or portion of a property exists as an easement and it is proposed to acquire the underlying fee, but to continue the easement as is or with further restriction, the appropriation map includes a provision that the interest appropriated by the State is subject to that right. The basic wording is similar to a reservation clause except that it is extended to recite the source of the easement rights and to set forth the location and any further limitations on the easement to be reserved.

If the owner of the easement is to be allowed to continue to have facilities on the same alignment, adjusted to the line and grade of the project, that easement may be continued by taking the property "Subject to" such easement, but properly qualified to satisfy design requirements.

The remaining on existing alignment is the major item that fixes and controls the location of the easement despite the fact that the terms of such easement permit a choice of position within a greater area. For example: a utility company may have an easement for a utility line that is not specific as to location but would appear to be anywhere across the 100-acre farm of a private owner. The construction of that line in the initial instance fixes and determines the location and the easement rights do not run in and to the balance of the 100 acres or any other place within it. Under that basic easement you cannot relocate the utility line elsewhere on that 100-acre farm. An additional grant from the fee owner is necessary to vest the company with an easement at the new location. It therefore follows that in going across this 100 acre farm with a highway right of way and it is desired to move the utility line to a new location on the farm, it cannot be done by reserving a right of way to the utility company at the new location. The legal steps necessary to cause the relocation of the easement would be to acquire the right of way in the first instance without a reservation running to the utility company; then after the fee is acquired by the State, a grant of a right of way will be made by the State to the utility company for the new location.

The real key is to identify the utility facilities (other than service lines, which may generally be disregarded) which do not have to be moved. Utility Lines are in some cases being located by Subsurface Utility Engineering Services under a State contract. It is important that the locations of the Utility Lines be tied into the Existing Survey Baseline by the Utility Engineering Service for an accurate location. The map should contain a “Subject To” clause relating only to those facilities. If the Utility Company obtained its rights pursuant to a recorded easement, then the version of the clause which incorporates the filed easement information should be used (See example “a” format below). If no record of an easement being filed is available then the general “Subject To” clause should be used (See example “b” format below). All utility rights, known or unknown, other than those which are covered by a “Subject To” clause will be wiped out once the map is filed in the County Clerk’s Office. In the event that a Utility facility is later found and it is determined that the facility can remain, the department can convey an easement for it to the Utility Company if the Utility Company so desires, otherwise, the Utility Company can make a claim for compensation.
ACQUISITION MAPS

Where a municipality has facilities (water, sewage, storm drainage, etc.) which are located on easements over private lands and said lands are to be appropriated by the State, a "Subject to" clause should not be used. The municipality has the obligation to maintain such facilities under applicable provisions of law and, therefore, is deemed to have the inherent right of entry upon State lands to maintain any such facilities, provided they lie within the corporate limits of its jurisdiction. See Section 10 Subdivision 24 of the Highway Law.

If the municipal facilities are located outside corporate limits of the municipality, the appropriate "Subject to" clause should be used.

The designer should be consulted before the "Subject to" clause is composed to describe exactly what rights are to be preserved and what restrictions are required.

Everyone preparing property acquisition maps must always be mindful that each "Subject to" clause must be studied to determine all of the qualifications that are required. Your particular attention is drawn to the multiple variations as set forth in these instructions.

The following miscellaneous notes relative to "Subject to" clauses are called to your attention:

1. The inclusion of a "Subject to" clause (or "Reservation" clause) requires a variation in the language of the "Statement of Necessity and Authority"

2. Electric Lines ... include power, telephone, telegraph, television lines, fiber optic, wave guide etc.

3. Pipe lines ... include fluid, liquid or gas lines...or specify water, gasoline, oil, sewage, natural gas, liquid petroleum gas, etc.

After the parcel description, if applicable, one of the two following paragraphs is used in describing the right to which the appropriation will be subject to.

a. Subject to clause to be used when there is a record of an easement.

Subject to the easement rights of others as their interest may appear as set forth in grant Dated _______________ by__________________________, grantor, to _________________, grantees, recorded in the Office of the Clerk of _________________ County on the ________day of __________ in Liber _________________of Deeds at page _______affecting the area shown and designated on the above map as _____ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to clause to be used when there is no record of an easement.

Subject to the easement rights which apply to the existing utility line shown on the above map and designated as UNDERGROUND (indicate utility line company that owns the utility line) (Indicate type of line i.e. GAS, TELEPHONE) LINE which easement rights are hereby and hereafter restricted and limited as follows:

See Sample Map in Appendix “Q – 11”
ACQUISITION MAPS

The most common situations involving "Subject to" clauses are listed below:

1. AERIAL ELECTRIC LINES ACROSS FEE WITH ACCESS - with standard restrictions, and restriction on placement of poles, towers, supports or other structures within an established distance of any edge of the highway pavement.

2. AERIAL ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restriction on placement of poles, towers, supports or other structures within the controlled access limits of the highway.

3. AERIAL ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing that no poles, towers, supports or other structures shall be placed within the controlled access limits of the highway.

4. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITH ACCESS - with standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

5. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restrictions on placement of manholes, vents or other structures within the controlled access limits of the highway.

6. SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing that no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

7. PIPE LINES ACROSS FEE WITH ACCESS - with standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

8. PIPE LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions plus restrictions on placement of manholes, vents or other structures within the controlled access limits of the highway.

9. PIPE LINES ACROSS FEE WITHOUT ACCESS - with standard restrictions and providing that no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

10. COMBINED AERIAL AND SUBTERRANEAN "SUBJECT TO" CLAUSE.
ACQUISITION MAPS

AERIAL ELECTRIC LINES ACROSS FEE WITH ACCESS

With standard restrictions plus restriction on placement of poles, towers, supports or other structures within an established distance of any edge of the highway pavement.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated_______ by____________________, grantor, to____________________ grantees, recorded in the Office of the Clerk of_______ County on the__ day of______ in Liber______ of Deeds at page_____; affecting the area shown and designated on the above map as _______FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING AERIAL (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s)____above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no pole, tower, support or other structure shall be placed within_______feet of any edge of the highway pavement, and further providing that no change in the clearance over the highway or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

If the general “Subject to” clause is used or if the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If there is an easement of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, over and across, all that (those) portion(s) of Parcel No.(s)______ which is within_______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_______FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
With standard restrictions plus restriction on placement of poles, towers, supports or other structures within the controlled access limits of the highway.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated ______ by ________________________, grantor to ________________________, grantee, recorded in the Office of the Clerk of __________ County on the ___ day of ______ in Liber ______ of Deeds at page _______; affecting the area shown and designated on the above map as ______ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING AERIAL (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s)____ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no pole, tower, support or other structure shall be placed within _____ feet of any edge of the highway pavement, and further providing that no change in the clearance over the highway or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.

If the general "Subject to" clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.
ACQUISITION MAPS

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, over and across, all that (those) portion(s) of Parcel No.(s)______which is within ______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as______ FEET WIDE RIGHT OF WAY.

**NOTE:** This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
With standard restrictions and providing no poles, towers, supports or other structures shall be placed within the controlled access limits of the highway.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated _________________ by ______________________, grantor, to __________________, grantee, recorded in the Office of the Clerk of _________________ County on the ___ day of _________________ in Liber _____ of Deeds at page _____; affecting the area shown on the above map and designated as __ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING AERIAL (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s) _____ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate electric lines, consisting of such wires, cables, supporting structures and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no pole, tower, support or other structure shall be placed within the controlled access limits of the highway, and further providing that no change in the clearance over the highway or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.

If the general "Subject to" clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.
ACQUISITION MAPS

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, over and across, all that (those) portion(s) of Parcel No.(s)_______ which is within _______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
With standard restrictions plus restriction on placement of manholes, vents or other structures within an established distance of any edge of the highway pavement.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated __________ by _______________, grantor, to ______________, grantee, recorded in the Office of the Clerk of __________ County on the ___ day of __________ in Liber ______ of Deeds at page ______; affecting the area shown and designated on the above map as ______ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING UNDERGROUND (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by

The owner of such easement rights referred to and affecting Parcel No.(s) ______ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as maybe deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no manhole, vent or other structure shall be placed at or above the surface of the ground within _____ feet of any edge of the highway pavement, and further providing that no change in the grade or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

If the general "Subject to" clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s) ________ which is within _____ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as _____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions plus restrictions on placement of manholes, vents or other structures within the controlled access limits of the highway.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated ______ by _________________, grantor, to _________________, grantee, recorded in the Office of the Clerk of _____________ County on the ______ day of _____________ in Liber ______ of Deeds at page ____; affecting the area shown and designated on the above map as ______ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING UNDERGROUND (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by

The owner of such easement rights referred to and affecting Parcel No.(s) ____ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no manhole, vent or other structure shall be placed at or above the surface of the ground within _____ feet of any edge of the highway pavement, and further providing that no change in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.

If the general “Subject to” clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.
ACQUISITION MAPS

If no width of the easement is delineated on the map, no additional data is necessary. If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No.(s)________ which is within _____ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_____FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

SUBTERRANEAN ELECTRIC LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated______ by ________________ , grantor, to ________________, grantee, recorded in the Office of the Clerk of _________ County on the ______ day of _______in Liber _______of Deeds at page __________; affecting the area shown and designated on the above map as _______ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

   OR

b. Subject to the easement rights which apply to the existing utility line shown on the above map and designated as EXISTING UNDERGROUND (indicate utility line company that owns the utility line) ELECTRIC LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s)_______ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and for such purposes construct, reconstruct, maintain, inspect and operate a subterranean system consisting of such encasements, conduits, sleeves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no manhole, vent or other structure shall be placed at or above the surface of the ground within the controlled access limits of the highway and further providing that no change in the grade or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at items of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.
ACQUISITION MAPS

If the general “Subject to” clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.
If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No.(s)________ which is within ______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as_____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
With standard restrictions plus restriction on placement of manholes, vents or other structures
within an established distance of any edge of the highway pavement.

a. Subject to the easement rights of others as their interest may appear as set forth in a
   grant dated ________ by ________________, grantor, to ________________, grantee,
   recorded in the Office of the Clerk of ________________ County on the ________ day of
   ________________ in Liber ______ of Deeds at page ______; affecting the area
   shown and designated on the above map as ______ FEET WIDE RIGHT OF WAY which
easement rights are hereby and hereafter restricted and limited as follows:

   OR

b. Subject to the easement rights which apply to the existing pipe line shown on the above
   map and designated as EXISTING UNDERGROUND (indicate owner of the pipe line)
   (indicate type of line, GAS, WATER, SEWAGE etc.) LINE which easement rights are
   hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s)______ above, may
continue to enjoy and exercise the permanent right, privilege and easement to transmit fluids,
liquids, or gases ... or transmit (water), (sewage), (gas) ...* and for such purposes construct,
reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements,
conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed
necessary by the owner of such easement for the proper operation or improvement thereof;
provided that no manhole, vent or other structure shall be placed at or above the surface of the
ground within ______ feet of any edge of the highway pavement, and further providing that no
change in the grade or in the alignment or location of such facilities shall be made, or additional
facilities constructed, which will interfere with the highway and its appurtenances or other
facilities of the State of New York.

* Modify type of use to meet your specific situation. An example being we should not reserve
the right to transmit sewage when only a gas line exists.

If the general “Subject to” clause is used or the "Subject to" clause covers an entire parcel, no
additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide
the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of
Parcel No.(s)______ which is within ______ feet of the center of the EXISTING (insert as
stated on the map) LINE, being a strip of property which is designated on the accompanying
map as____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the
easement is not centered on the utility line location.
ACQUISITION MAPS

PIPE LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions plus restriction on placement of manholes, vents or other structures within the controlled access limits of the highway:

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated ______ by ______, grantor, to ______ grantee, recorded in the Office of the Clerk of ______ County on the ______ day of ______ in Liber ______ of Deeds at page ______; affecting the area shown and designated on the above map as ______ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing pipe line shown on the above map and designated as EXISTING UNDERGROUND (indicate owner of the pipe line) (indicate type of line, GAS, WATER, SEWAGE etc.) LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s)____ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit fluids, liquids or gases ... or transmit (water), (sewage), (gas)...* and for such purposes construct, reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no manhole, vent or other structure shall be placed at or above the surface of the ground within ____ feet of any edge of the highway pavement and further providing that no change in the grade or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading of the highway pavement or shoulders it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.
ACQUISITION MAPS

If the general "Subject to" clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s)______which is within ______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as___ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

PIPE LINES ACROSS FEE WITHOUT ACCESS

With standard restrictions and providing no manholes, vents or other structures shall be placed at or above the surface of the ground within the controlled access limits of the highway.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated by, Grantor, to, grantee, recorded in the Office of the Clerk of County on the day of in Liber of Deeds at page ; affecting the area shown and designated on the above map as FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing pipe line shown on the above map and designated as EXISTING UNDERGROUND (indicate owner of the pipe line) (indicate type of line, GAS, WATER, SEWAGE etc.) LINE which easement rights are hereby and hereafter restricted and limited as follows:

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s) above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit fluids, liquids or gases ... or transmit (water), (sewage), (gas) ...* and for such purposes construct, reconstruct, maintain, inspect and operate a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; provided that no manhole, vent or other structure shall be placed at or above the surface of the ground within the controlled access limits of the highway and further providing that no change in the grade of the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading of the highway pavement or shoulders it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulder without immediate notice to the Commissioner of Transportation or authorized representative.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.
ACQUISITION MAPS

If the general "Subject to" clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of a parcel, provide the necessary preamble for the easement area as follows:

   Such easement shall be exercised in and to, under and across, all that (those) portion(s) of Parcel No. (s)________ which is within ______ feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as____ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS
COMBINED AERIAL AND SUBTERRANEAN "SUBJECT TO" CLAUSES

Any combination of rights for aerial and subterranean easements may be included in one "Subject to" clause by using the applicable wording which will describe the rights reserved and limits required.

a. Subject to the easement rights of others as their interest may appear as set forth in a grant dated __________________________ by __________________________, grantor, to __________________________, grantee, recorded in the Office of the Clerk of ____________ County on the ___ day of ________________ in Liber ____________ of Deeds at page ___; affecting the area shown and designated on the above map as ________ FEET WIDE RIGHT OF WAY which easement rights are hereby and hereafter restricted and limited as follows:

OR

b. Subject to the easement rights which apply to the existing utility lines shown on the above map and designated as EXISTING UNDERGROUND and AERIAL (indicate utility line company that owns the utility lines) (Indicate type of lines i.e. GAS, TELEPHONE) LINE which easement rights are hereby and hereafter restricted and limited as follows:

[NOTE: Designate each utility line on the map as EXISTING UNDERGROUND or AERIAL (indicate utility line company that owns the utility line) (Indicate type of line i.e. GAS, TELEPHONE LINE]

One of the above paragraphs is followed by:

The owner of such easement rights referred to and affecting Parcel No.(s) _______ above, may continue to enjoy and exercise the permanent right, privilege and easement to transmit electricity or messages by means of electricity and to transmit fluids, liquids or gases, *and for such purposes construct, reconstruct, maintain, inspect and operate electric lines consisting of such wires, cables, supporting structures and appurtenances, and a pipe line system consisting of such encasements, conduits, sleeves, pipes, valves, manholes, vents and appurtenances, as may be deemed necessary by the owner of such easement for the proper operation or improvement thereof; ... (insert here any additional restrictions on placement of facilities) ... provided, however that no change in the clearance over the highway, or in the grade below the highway, or in the alignment or location of such facilities shall be made, or additional facilities constructed, which will interfere with the highway and its appurtenances or other facilities of the State of New York.

* Modify type of use to meet your specific situation. An example being we should not reserve the right to transmit sewage when only a gas line exists.
ACQUISITION MAPS
SPECIAL RESTRICTION - CONTROLLED ACCESS

In every acquisition for a controlled access highway, the following special qualification must be added after the "Subject to" paragraph for combined Aerial and Subterranean lines:

Further providing that the right of ingress, egress and regress for the purposes of construction, reconstruction, maintenance, operation and inspection shall be limited to the areas lying between the outside edges of the highway shoulders and the highway boundary with no right of access for crossing, parking or working on the highway pavement or shoulders for any or all of these purposes; however, when it is necessary that the construction, reconstruction, maintenance and operation of such facilities requires crossing, blocking or barricading the highway pavement or shoulders, it shall be done only upon a written permit from and upon conditions specified by the Commissioner of Transportation or authorized representative, except at times of extreme emergencies. Even at times of extreme emergencies, there shall be no access to or crossing, blocking or barricading of the highway pavement or shoulders without immediate notice to the Commissioner of Transportation or authorized representative.

If the general “Subject to” clause is used or the "Subject to" clause covers an entire parcel, no additional data is necessary.

If no width of the easement is delineated on the map, no additional data is necessary.

If the easement is of record and the "Subject to" clause affects only a portion of the parcel, provide the necessary preamble for the easement area as follows:

Such easement shall be exercised in and to, under, over and across, all that (those) portion(s) of Parcel No. (s)_____ which is within_____feet of the center of the EXISTING (insert as stated on the map) LINE, and which is within _____feet of the center of the EXISTING (insert as stated on the map) LINE, being a strip of property which is designated on the accompanying map as______ FEET WIDE RIGHT OF WAY.

NOTE: This paragraph may need to be modified to fit various situations, such as when the easement is not centered on the utility line location.
ACQUISITION MAPS

5.12 Written Description (Element 6)

This element follows the map sheets and applies where a full description is required such as, if there is no Tax Map Parcel Number, beds of streets and streams, D-Maps, C-Maps Transfer of Jurisdiction Maps or determined necessary by the Regional Land Surveyor.

5.12.1 Fee or Fee Without Access Preamble (Element 6a)

The standard preamble should read as follows:

All that piece or parcel of property hereinafter designated as Parcel No._______, situate in the Town of _________________, County of ________________, State of New York, as shown on the accompanying map and described as follows:

or in the case of more than one parcel:

“All those pieces or parcels of property hereinafter designated as Parcel Nos.______, ________, and______, situate in ...”

The above quotations are on the premise that the location of the property is in a town and county, where the usual deed between private owners does not ordinarily more specifically define the geographical location. In incorporated communities such as Villages and Cities together with certain Towns, where the practice is to define the geographical location more specifically, it will be necessary to recite such information on the appropriation maps. These further breakdowns of a political subdivision may be, depending upon the location, identified somewhat as follows:

Lot No.____, Township No.______, Range No._____
Lot No.____, Block No._______, Ward No._____
Lot No.____, District No.______, Section No.____

The political subdivision identification shall also be followed with the further designation, i.e.

1. in the Village of ____________, and the Town of ____________, and County of ____________, State of New York.
2. in the Town of ____________, and the County of ________________, State of New York
3. in the City of ____________, and the County of ________________, State of New York
4. partly in the Village of ____________ and all in the Town of ________________, and the County of ________________, State of New York, whichever applies.

Also in the case of more than one parcel, each parcel shall be clearly defined as to its geographic location, e.g.: Parcel No. 1 situate in the Town of ____________, Parcel No. 2 situate partly in the Village of ____________, and all in the Town of ____________, each being in the County of ________________, State of New York ...
ACQUISITION MAPS

Appropriations affecting a filed Real Estate subdivision map should be further identified by inserting the proper information so that the preamble will read as follows:

“All that piece or parcel of property hereinafter designated as Parcel No. 4, being a portion of Lots 23, 24, 25, 26, 27, 28 and 29, as shown on a map entitled "Forbesville" by Walker dated October 26, 1873, filed in the Rensselaer County Clerk's Office on March 31, 1874, as Map 18 in Drawer 25, situate in Ward No. 5 in the City of Rensselaer, County of Rensselaer, State of New York, as shown on the accompanying map and described as follows”:

On a fee appropriation map that does not require a full written description the following preamble will be added:

“All that piece or parcel of property designated as Parcel No.____, as shown on the accompanying map, to be acquired in Fee.”

On a fee without access appropriation map that does not require a full written description the following preamble will be added:

“All that piece or parcel of property designated as Parcel No.____, as shown on the accompanying map, to be acquired in Fee, without right of access to and from abutting property.”

On an appropriation map with a fee with access parcel and a fee without access parcel that does not require a full written description; the following preamble will be added:

“All those pieces or parcels of property designated as (1) Parcel No.______, as shown on the accompanying map, to be acquired in Fee, without right of access to and from abutting property and (2) Parcel No._______, as shown on the accompanying map, to be acquired in Fee.”

5.12.2 Parcel Description (Element 6b)

A parcel description can consist of the following parts as needed:

1. **Point of Beginning** - All descriptions require a point of beginning. The point of beginning which is an important element provided in a legal description of property is usually located on the highway boundary at the intersection of a property line or other physical feature. Otherwise, the point of beginning is to be located on the parcel perimeter where it will afford the simplest description. The point of beginning must be related to the survey base line by stations and offsets. For mapping purposes, the point of beginning is usually established at the lowest station point and the parcel is described either clockwise or counter clockwise so that the highway boundary is the last or closing course.

A numerical list of all points of beginning may be used to set up the numbering order of Maps and Parcels.

2. **Point of Commencing** - When the point of beginning is isolated along a highway boundary and its actual field location would be difficult, it is necessary to tie said point by a distance along the boundary (or a bearing and distance when the boundary is not used) to some tangible line of demarcation called the Point of Commencing. Said point is related to the survey base line by stations and offsets.
ACQUISITION MAPS

The usual Points of Commencing are property lines, center lines of intersecting roads and bridge or culvert center lines.

When a Point of Commencing is used, the description shall read as follows:

“Commencing at a point, said point being ... etc."

Describe the location, relate it to the baseline and project, insert tie information, and continue the description as follows:

to the point of beginning, said point of beginning being. ... etc.

3. **Highway Name** - Identify the highway with full name and State Highway number as shown elsewhere on the map.

4. **Physical Features** - A parcel is usually bounded in whole or part by property lines, streams or the boundaries of the subject road or an intersecting road. It is important that these features be fully identified as follows:

   a. **Property lines** - Always use the full names of all Reputed Owners as shown on the delineation. Double check spelling! Do not repeat property line identification unnecessarily. When appropriate, utilize the phrases "the first above mentioned," the aforesaid" and "the last mentioned."

   b. **Streams** - Use the proper names of creeks and rivers. After you have mentioned "Mohawk River" the first time, you may refer to it thereafter as "along said river's edge, etc." When creeks or rivers intersect a highway boundary the frontage distance to be acquired along the intersecting highway boundary should be described as being along the highway boundary also being through the bed of the "Mohawk River".

   c. **Road Boundaries** - Identify by name and number all intersection roads. The subject road boundaries and intersecting road boundaries must be clearly separated and identified in the original instance. Thereafter, they may be called "the first mentioned" or "the last mentioned" boundary.

5. **Bearings and Distances** - The bearings and distances, as shown on the delineation are to be described as follows:

   a. If a single bearing and distance is used, recite... “thence through the property of John Brown (reputed owner) North 30° 45'15" East, ______ ± feet to..."

   b. If multiple courses are necessary, recite as follows: “...thence through the property of John Brown (reputed owner) the following three (3) courses and distances: (1) North 60° 55'05" East, ______ ± feet to a point ...; (2) South 75° 00'10" East, ______ feet to a point on the...; and (3) South 27° 25' 48" West, ______ ± feet to a point..."

   c. Bearing and distance should not be assigned to lines of demarcation, such as property lines, river edges or highway boundaries.

   Special care should be exercised in describing bearings and distances so that numbers are not transposed and compass directions are not reversed.
ACQUISITION MAPS

6. **The Area** - After the closing course has been described and the scrivener has returned to the point of beginning, it is necessary to recite the parcel area exactly as shown on the delineation as follows:

"..., being 1,175± Square Feet, more or less." (when the parcel is less than 1 Acre, to the nearest square foot ±)

"..., being 1.123± Acres, more or less." (when the parcel is greater than 1 Acre, to 3 decimal places ±)

**NOTE:** The limits of parcels being acquired from the beds of streams or streets and highways are depicted by Stations and Offsets from the project baseline with the intent being to run along the stream.

The parcel descriptions of the beds of streams or streets and highways should always begin with the phrase:

"Being all that portion of the Bed of Fox Creek, beginning at a point..."

OR

"Being all that portion of the Bed of Quaker Street, beginning at a point..."

This will be continued with a parcel description.

5.13 **Unauthorized Alteration Clause (Element 7)**

This element refers to Section 7209, Subdivision 2, of the New York State Education Law regarding alteration of survey maps signed by a Licensed Land Surveyor. It is shown on the Signature Sheet of the map above the Surveyor's Certification and noted as follows:

Unauthorized alteration of a survey map bearing a licensed land surveyor's seal is a violation of the New York State Education Law.

5.14 **Certifications (Element 8)**

5.14.1 **Land Surveyor's Certification (Element 8a)**

All appropriation maps require a certification, dated and signed by the land surveyor preparing the map. A digital signature should be used. For the use of an electronic professional seal/signature please refer to current Engineering Instruction on Professional Seals.

The certification shall read as follows:

"I hereby certify that this map was prepared in accordance with current NYSDOT policies, standards and procedures."

The above certification is followed by the Date Line and Signature Line as follows:
ACQUISITION MAPS

Consultants:

1. If the Consultant is functioning as a Company, use this form...

DATE: ______________, 20__

FELTS AND KETCHAM, INC.
Surveyors (Consulting Engineers)
________________________
By (name of L.S.)
License No.______________

2. If the Consultant is an individual use this form...

DATE: ______________, 20__

________________________
By (name of L.S.)
License No.______________

Regional:

DATE: ______________, 20____

________________________
John H. Smith, Land Surveyor
L.S. License No. 00000

The licensed land surveyor's seal is required on acquisition maps as specified in Section 7209 of the Education Law. The seal shall be located in the open space to the left of the Land Surveyor's Certification. An electronic seal should be used. For the use of an electronic professional seal/signature please refer to current Engineering Instruction on Professional Seals.
5.14.2 Project Certification (Element 8b)

The following is to be used on property acquisition maps for the Department of Transportation to certify that the acquisition is necessary for the project.

I hereby certify that the property mapped above is necessary for this project and the acquisition thereof is recommended.

DATE: ________________, 20___

___________________________
Harry F. Brown
Regional Director of Transportation
Region No. 15

In those instances where the authority to sign the certificate recommending acquisition is duly delegated by memoranda to someone in addition to the Regional Director, such designation is indicated beneath the signature line. Title is shown below the signature line and the words "For the" are placed in front of "Regional Director of Transportation" as per the following example:

*Note: See Appendix “A” for Official Order No. 1581 which allows the Regional Director to delegate authority to Regional Group Directors.*

I hereby certify that the property mapped above is necessary for this project, and the acquisition thereof is recommended.

DATE: ________________, 20___

___________________________
(Title of Designated Signatory)
For the Regional Director of Transportation
Region No. __

Another State Agency or Local Projects:

This is used when the New York State Department of Transportation is acquiring Right of Way for a Locality or another State Agency.

I hereby certify to the Commissioner of the New York State Department of Transportation that the property mapped above is necessary for this project and the acquisition thereof is recommended.

DATE: ________________, 20___

___________________________
John G. Smith
Title of signer
Name of Locality
(Local Official Title is required)
ACQUISITION MAPS

5.15 Acquisition Information (Element 9)

This information is located below the certifications and includes the following:

5.15.1 Name of Reputed Owner (Element 9a)

Property owners' names on appropriation maps will always be qualified as, Name (Reputed Owner) and shall be the same as recited in the last deed of record. There may be exceptions such as corporation ownership. This is essential because the property will sometimes change hands from one owner to another during the elapsed time between the survey, the preparation of the map and the actual acquisition by the State.

Beds of roads, streets and highways as well as beds of rivers, streams, brooks and lakes that are not privately owned, are not qualified as "Reputed Owners" but are titled as follows:

"A PORTION OF THE BED OF FOX CREEK"

or

"A PORTION OF THE BED OF QUAKER STREET"

Where property in the beds of streams, lakes, streets, roads, highways is being acquired, such acquisition shall be pursuant to Section 30 of the Highway Law and the Eminent Domain Procedure Law.

5.15.2 Total Area To Be Acquired (Element 9b)

The total area to be acquired is the sum of all the parcel areas on a single map. It is not necessary to differentiate between fee areas, fee without access areas or permanent easement areas in this summation. Total area will not be shown on a map with a single parcel. On maps that also include a temporary easement parcel the area of the temporary easement will not be included in the total area of the map.

Special care should be exercised in this totalization so as to avoid errors

Typical "Total Area" summation appears as follows:

Total Area = 1,234.5 ± Sq. Ft. (when the Total Area is less than 1 Acre)
or Total Area = 1.123 ± Acre (when the total area is greater than 1 Acre)
5.16 **Statement Of Necessity And Authority (Element 10)**

The statements of necessity and authority are combined in one paragraph of an appropriation map. This paragraph also recites the nature of the estate or estates which are taken and makes reference to any rights reserved.

**Basic Statements of Necessity and Authority** (Including type of estate)

Because of the variations possible in the types of estate acquired, the number of parcels required and reservations of rights, following are sixteen basic paragraphs which encompass most of the possible combinations. Any further variations would involve only additional parcels which would be included by changing the reference words to a plural form or by combining one or more of the following to obtain the desired wording for a specific situation.

**NOTE:** The blank___________ in these basic paragraphs should be filled in with the proper statutory reference which will be explained later in this element. (This will not always be a Highway Law)

**INDEX TO PARAGRAPHS DECLARING NECESSITY AND AUTHORITY**

1. Fee.
2. Fee having Controlled Access.
3. Easement.
4. Fee having Controlled Access and a Reservation, and/or Subject To
5. Fee having Controlled Access combined with another Fee.
6. Fee having Controlled Access combined with another Fee, also Easement.
7. Fee combined with an Easement.
8. Fee having Controlled Access combined with an Easement.
9. Fee with a Reservation and/or Subject To.
10. Fee having Controlled Access combined with another Fee with a Reservation and/or Subject To.
11. Fee having Controlled Access and a Reservation and/or Subject to combined with another Fee with a Reservation and/or Subject To.
12. Fee having Controlled Access combined with another Fee with a Reservation and/or Subject To, also Easement.
13. Fee having Controlled Access and a Reservation and/or Subject To combined with another Fee with a Reservation and/or Subject To, also Easement.
14. Fee with a Reservation and/or Subject To combined with an Easement.
15. Fee having Controlled Access and a Reservation and/or Subject To combined with an Easement.
16. Fee Acquisition by the State on Local Projects.

1. **Fee**

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee for purposes connected with the highway system of the State of New York pursuant to Section_______ of the Highway Law and the Eminent Domain Procedure Law.
ACQUISITION MAPS

2. Fee Having Controlled Access

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, without right of access to and from abutting property, for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.

3. Easement

Map of property in and to which an easement as hereinabove defined is deemed necessary by the Commissioner of Transportation to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.

4. Fee Having Controlled Access and a Reservation and/or Subject To

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, without right of access to and from abutting property, except for the purposes of the rights described above, for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.

5. Fee Having Controlled Access Combined with Another Fee

Map of property showing (1) Parcel No. ______ to be acquired in fee, without right of access to and from abutting property; and (2) Parcel No. ______ to be acquired in fee; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.

6. Fee Having Controlled Access Combined with Another Fee, Also Easement

Map of property showing (1) Parcel No. ______ to be acquired in fee, without right of access to and from abutting property; (2) Parcel No.______ to be acquired in fee; and (3) Parcel No. ____ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.

7. Fee Combined with an Easement

Map of property showing (1) Parcel No.__________ to be acquired in fee; and (2) Parcel No. in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section ______ of the Highway Law and the Eminent Domain Procedure Law.
ACQUISITION MAPS

8. Fee Having Controlled Access Combined with an Easement

Map of property showing (1) Parcel No._________ to be acquired in fee, without right of access to and from abutting property; and (2) Parcel No._________ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section____ of the Highway Law and the Eminent Domain Procedure Law.

9. Fee with a Reservation and/or Subject To

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, except for the purposes of the rights described above, for purposes connected with the highway system of the State of New York pursuant to Section____ of the Highway Law and the Eminent Domain Procedure Law.

10. Fee Having Controlled Access Combined with Another Fee with a Reservation and/or Subject To

Map of property showing (1) Parcel No._________ to be acquired in fee, without right of access to and from abutting property; and (2) Parcel No._________ to be acquired in fee, except for the purposes of the rights described above; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section____ of the Highway Law and the Eminent Domain Procedure Law.

11. Fee Having Controlled Access and a Reservation and/or Subject To Combined with Another with a Reservation and/or Subject To

Map of property showing (1) Parcel No._________ to be acquired in fee, without right of access to and from abutting property, except for the purposes of the rights described above; and (2) Parcel No._______ to be acquired in fee, except for the purposes of the rights described above; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section____ of the Highway Law and the Eminent Domain Procedure Law.

12. Fee Having Controlled Access Combined with Another Fee with a Reservation and/or Subject To, also Easement

Map of property showing (1) Parcel No._________ to be acquired in fee, without right of access to and from abutting property; (2) Parcel No._______ to be acquired in fee, except for the purposes of the rights described above; and (3) Parcel No._______ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section____ of the Highway Law and the Eminent Domain Procedure Law.
ACQUISITION MAPS

13. Fee Having Controlled Access and a Reservation and/or Subject To Combined with Another Fee with a Reservation and/or Subject To, also Easement

Map of property showing (1) Parcel No._______ to be acquired in fee, without right of access to and from abutting property, except for the purposes of the rights described above; (2) Parcel No._______ to be acquired in fee, except for the purposes of the rights described above; and (3) Parcel No._______ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section _________of the Highway Law and the Eminent Domain Procedure Law.

14. Fee with a Reservation and/or Subject to Combined with an Easement

Map of property showing (1) Parcel No._______ to be acquired in fee, except for the purposes of the rights described above; and (2) Parcel No._______ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section _________of the Highway Law and the Eminent Domain Procedure Law.

15. Fee Having Controlled Access and a Reservation and/or Subject To Combined with an Easement

Map of property showing (1) Parcel No._______ to be acquired in fee, without right of access to and from abutting property, except for the purposes of the rights described above; and (2) Parcel No._______ in and to which an easement as hereinabove defined is to be acquired; each of which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section _________of the Highway Law and the Eminent Domain Procedure Law.

16. Fee Acquisition by the State on Local Projects

Map of property which the Commissioner of Transportation deems necessary to be acquired for and at the request of the (name of a locality) by appropriation in the name of the People of the State of New York in fee, for purposes connected with the highway system of (name of a locality) pursuant to Section 30 of the Highway Law, as made applicable by Section 10, Subdivision 34-A, of the Highway Law and the Eminent Domain Procedure Law.

Explanation of Statutory Reference

The blanks in the preceding Necessity and Authority paragraphs are for inserting the particular statute or statutes which grant the authority to the Commissioner to so appropriate.

A list of the present statutes, which combined with the Eminent Domain Procedure Law, grant such authority and the circumstances and purposes of their use is explained herein.
A. **Section 30 of the Highway Law**

This is the basic statute granting authority for the acquisition of the right of way required for highway use.

B. **Section 349-C of the Highway Law**

Combined with Section 30, this statute provides authority for the acquisition of right of way for arterial highways.

C. **Section 340-B of the Highway Law**

Combined with Section 30, this statute provides authority for acquiring for an interstate highway and bridges, lands or interest in land other than that required for normal right-of-way. Specific authority is granted for appropriation of property for drains, ditches, spoil banks, gravel pits, stone quarries, storehouses and repair shops; in addition for the removal of obstructions, improvement of sight distance, either for incorporating an existing highway-railroad grade separation structure or for a new grade separation structure, and for purposes of improving safety conditions on the interstate routes.

D. **Section 340-D of the Highway Law**

Combined with Section 30, this statute provides authority for acquiring for State Expressways and bridges, lands or interest in land other than that required for normal right-of-way. Specific authority is granted for appropriation of property for drains, ditches, spoil banks, gravel pits, stone quarries, storehouses and repair shops; in addition for the removal of obstructions, improvement of sight distance, either for incorporating an existing highway-railroad grade separation structure or for a new grade separation structure, and for purposes of improving safety conditions on State Expressways.

E. **Section 12 of the Highway Law**

Combined with Section 30, this statute grants authority to appropriate property for the purpose of storing, maintaining or processing construction and maintenance supplies, material or equipment; and for providing, erecting and maintaining offices for department personnel and structures for storing, maintaining or processing construction and maintenance materials or equipment.

F. **Section 21 of the Highway Law**

Combined with Section 30, this statute grants authority to appropriate property for restoration, preservation and enhancement of natural or scenic beauty of areas traversed by State Highways, in order for the State to comply with Federal Aid Highway Acts.

G. **Section 89 of the Highway Law**

Combined with Section 30, this statute authorizes, under stated conditions, the acquisition of junkyards and scrap metal processing facilities.
ACQUISITION MAPS

H. **Section 10, Subdivision 29, of the Highway Law**

Combined with Section 30, this statute authorizes combined appropriations for highway use and urban renewal of property which lies adjacent to or within an urban renewal area and also when there would be consequential damage to the owner’s remaining property.

I. **Section 29 of the Highway Law**

This section authorizes the acquisition of property necessary for projects located on the "strategic network of highways" as defined by Federal statute. These are commonly referred to as defense access highways.

J. **Section 228 of the Transportation Law**

This statute supplies the authority to appropriate property required for a highway-railroad grade crossing elimination. Subsection 30 gives the Department of Transportation the right to convey property originally acquired by the Public Service Commission.

K. **Section 22 of the Highway Law**

This statute authorizes the acquisition of property in order to provide multi-user areas adjacent to State Highways and recreational, natural and scenic areas along, but not necessarily contiguous to, State Highways, except that the commissioner may acquire property anywhere in the State for the purpose of constructing bikeways. Such multi-use areas may be utilized for, but not limited to, walking, hiking, bicycle, trail bike, recreational vehicle and snowmobile trails and the installation of public utilities.

L. **Section 10, Subdivision 24-d, of the Highway Law**

Combined with Section 30, this statute grants authority to appropriate property for the reestablishment of private access to a public road where such access is destroyed by acquisition of right of way for a highway project.

M. **Section 10, Subdivision 34, of the Highway Law**

Combined with Section 30, this statute authorizes appropriations for "TOPICS" (Traffic Operations Program to Increase Capacity and Safety) projects. In the statement of necessity and authority on the acquisition map, it should be stated that the acquisition is for purposes connected with existing street and highway systems in urban areas of the State of New York pursuant to Section 30 of the Highway Law as authorized by Section 10, Subdivision 34, of the Highway Law.

N. **Section 10, Subdivision 34-A, of the Highway Law**

Combined with Section 30, this statute authorizes appropriations for "Off State Systems." In the statement of necessity and authority on the acquisition map, it should be stated that the acquisition is pursuant to Section 30 of the Highway Law, as made applicable by Section 10, Subdivision 34-A, of the Highway Law and the Eminent Domain Procedure Law and at the request of the municipality in which the map is located.

(See example statement under Special Statements of Necessity and Authority)
O. **Section 88 of the Highway Law**

Combined with Section 30, this statute authorizes, under stated conditions, the acquisition and removal of advertising signs, displays and devices and the acquisition of the necessary rights in and to said property.

P. **Section 18 of the Transportation Law**

Combined with Section 30 of the Highway Law, this statute gives the Commissioner of Transportation a preferential right to acquire property which has been abandoned for railroad transportation purposes.

Q. **Section 1308 of the Public Authorities Law**

Combined with Section 30 of the Highway Law, this statute gives the Department of Transportation the authority to acquire properties on behalf of the Capital District Transit Authority.

R. **Section 92 of the Railroad Law**

Along with the Eminent Domain Procedures Law gives the Department of Transportation the authority to acquire properties for railroad crossings.

S. **Section 10, Subdivision 24-b, of the Highway Law**

Combined with Section 30, this statute grants as a result of work of construction, reconstruction, or maintenance of State highways, to provide for the removal, relocation, replacement and reconstruction of water lines and sewage disposal facilities that are privately owned and located on privately owned property.

T. **Section 14-c of the Transportation Law**

Combined with Section 30 of the Highway Law, this statute gives the Department of Transportation the authority to acquire property to establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair intercity rail passenger service facilities.

U. **Section 10, Subdivision 43 of the Highway Law**

This statute authorizes the acquisition of property to replace publicly owned park, recreation area, wildlife and waterfowl refuge, wetland or historic site lands acquired or to be acquired for state highway or transportation purposes.

V. **Special Statutes**

From time-to-time specific statutes are enacted for the appropriation of property for a particular purpose such as an office building site. Such statutes generally authorize the use of the procedures set forth in Section 30 of the Highway Law. Under these circumstances, the two statutes are combined in the statement.
ACQUISITION MAPS

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<td>7. Junkyard Control of Primary State Highways &amp; Interstate Highways</td>
<td>Sections 30, 89 &amp; E.D.P.L.</td>
</tr>
<tr>
<td>8. Defense Access Highways</td>
<td>Section 29, &amp; E.D.P.L.</td>
</tr>
<tr>
<td>9. Off System Projects</td>
<td>Sections 10, 30 &amp; E.D.P.L.</td>
</tr>
<tr>
<td>10. Beds of Streets and Streams</td>
<td>Section 30, &amp; E.D.P.L.</td>
</tr>
</tbody>
</table>

**Special Statements of Necessity and Authority**

The following statements of necessity and authority require different wording explaining the purpose of the appropriation as well as different statutory reference.

1. **Grade Crossing Eliminations**
   
   "Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York. for the elimination of the above highway-railroad crossing pursuant to the provisions of Section 228 of the Transportation Law and the Eminent Domain Procedures Law."

2. **Urban Renewal - Highway Combination**
   
   "...for purposes connected with the highway system of the State of New York pursuant to Section 30 of the Highway Law and for purposes of urban renewal as authorized by Section 10, Subdivision 29, of the Highway Law and the Eminent Domain Procedures Law."
ACQUISITION MAPS

3. Acquisitions on Projects of other State Agencies for which DOT is the Acquiring Agency

Contains the current wording which states that the acquisition has been approved by the Commissioner of Transportation. However, this will be separately signed by the Director of the Real Estate Division. An example being:

Map of property which the Commissioner of Transportation deems necessary to be acquired by appropriation in the name of the People of the State of New York in fee, without the right of access to and from the abutting property, for purposes connected with the Thruway System of the State of New York pursuant to the applicable provisions of Article XII-A of the Highway Law, Article 2, Title 9 of the Public Authorities Law and the Eminent Domain Procedure Law.

Date_________________ 20__

(Type Director's Name)
Director, Real Estate Division

Examples: Thruway projects; railroad improvement projects, etc.

4. Appropriations for Off State Systems

Map of property in and to which an easement as hereinabove defined is deemed necessary by the Commissioner of Transportation to be acquired for and at the request of the City of Syracuse by appropriation in the name of the People of the State of New York for purposes connected with the highway system of the State of New York pursuant to Section 30 of the Highway Law as made applicable by Section 10, Subdivision 34-A of the Highway Law and the Eminent Domain Procedure Law.
ACQUISITION MAPS

5.17 Exception Of Title And Interest Of U. S. A (Element 11)

A self-explained statement as follows:

"There is excepted from this appropriation all the right, title and interest, if any, of the United States of America in or to said property."

5.18 Filing Certifications (Element 12)

These are certifications required for approval of the appropriation and that a copy of the map is a true copy of the original. The certifications are to be shown on the maps as follows:

5.18.1 Official Approval and Certification of Filing in the Department of Transportation and other State Agencies (Element 12a)

A statement signed by the Director, Real Estate Division approving the appropriation and stating the date the map is filed in the Department of Transportation.

The statement reads as follows:

"Pursuant to the statute(s) set forth above and the authority delegated to me by Official Order of the Commissioner of Transportation, this acquisition map is hereby approved and filed in the main office of the New York State Department of Transportation."

DATE:_____________________, 20_____  
______________________________  
(TYPE DIRECTOR’S NAME)  
Director, Real Estate Division

5.18.2 Certification Of "True Copy" (Element 12b)

This certification is self-explanatory and reads as follows:

"I have compared the foregoing copy of the map with the original thereof, as filed in the Office of the State Department of Transportation and I do hereby certify the same to be a true and correct copy of the original and of the whole thereof."

__________________________  
Real Estate Division