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# Modifications to Limited Access Right of Way Not adjacent to Interstates

# Overview

## Outline of the Process

- What is a L.A. R/W modification?

## Required Information from Requestor

- What does the requestor have to do to get their request processed?

## Central Office Property Management Responsibilities

- What does Central Office have to do to process the request?

## Federal Highway Reimbursement

- How much money must go back to the Federal Government?

# Not adjacent to Interstate System

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## Definition

- A. L.A. R/W Modification on a State Highway, within 1 mile of an Interstate interchange would be subject to FHWA review
  - Different process, higher level of scrutiny, longer time frame, NEPA documentation
- B. L.A. R/W Modification on a State Highway more than 1 mile from Interstate interchange.
  1. Follows the process outlined in this presentation.
  2. 2 component process
    - a) Permit Section: Review and issuance of a permit for LA Modification
    - b) Real Estate Section: Land rights and final documentation

# What is a L.A. R/W Modification?

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## Two Main Types of Modification

### 1. L.A. R/W Break

- This typically means adding an ingress/egress point along the side of the road such as a drive for a business or private property.

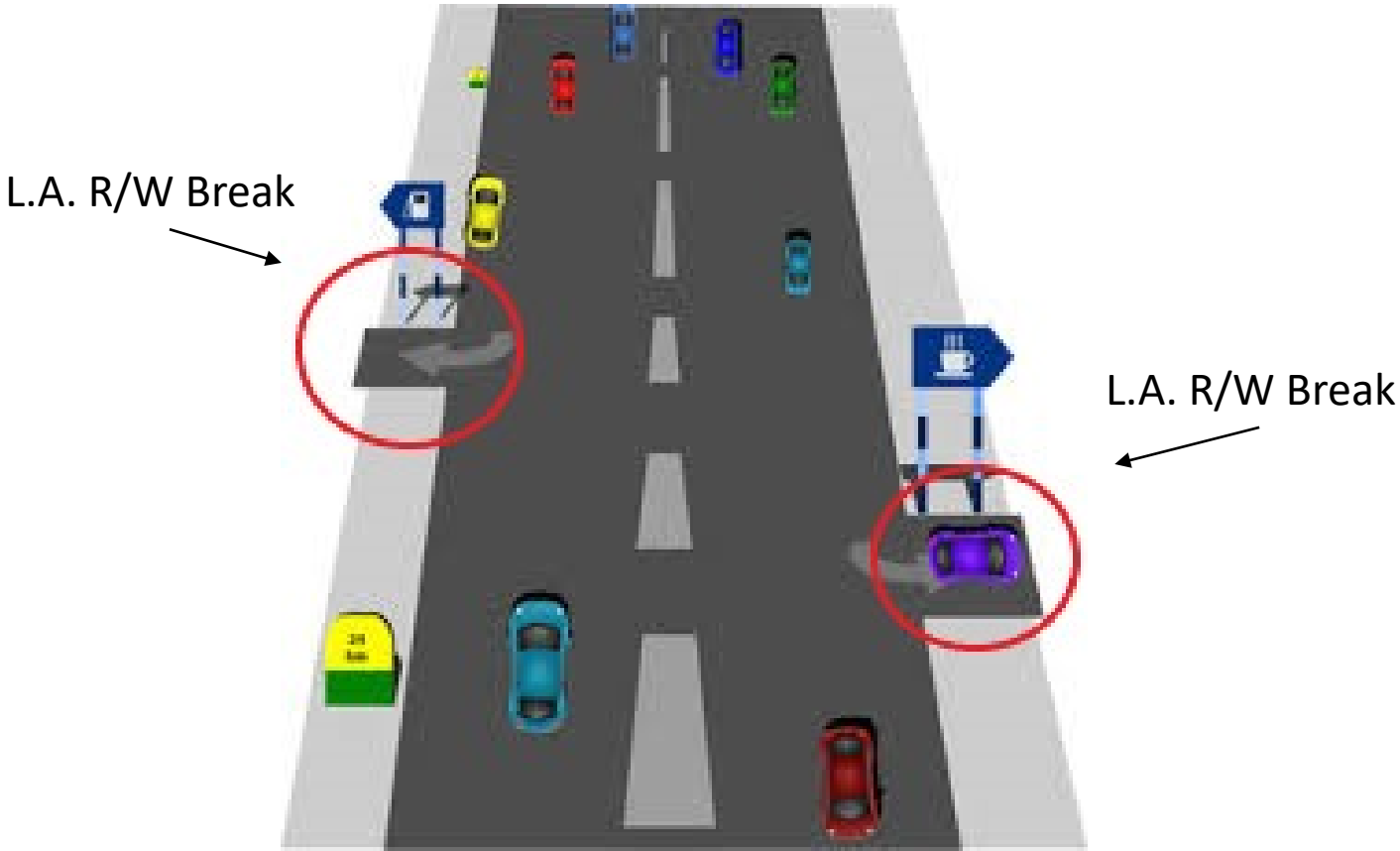
### 2. L.A. R/W Movement

- This can happen if Right of Way is deemed excess and being sold back to the parcel from which it was separated from originally.
- Widening a current opening, such as taking a class IV drive to a class II drive.



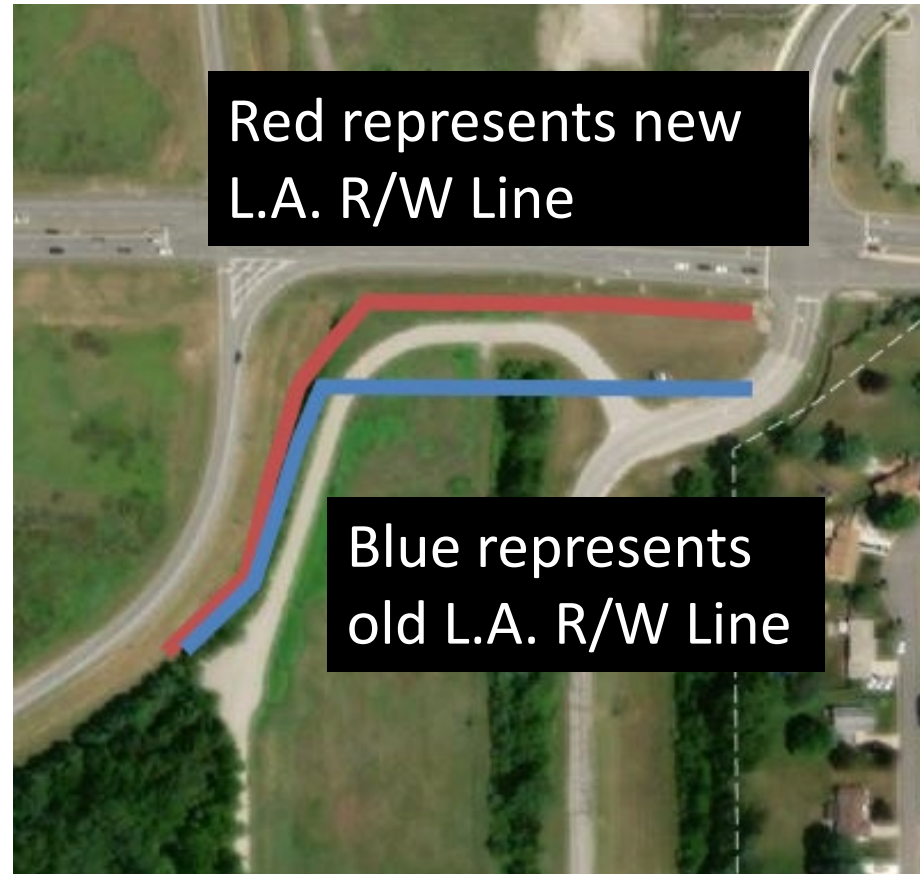
# Example of a L.A. R/W Break

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# Example of L.A. R/W Line Moving

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# First Things First...

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It is important to note that INDOT Real Estate does not consider a L.A. R/W modification request until the Requestor has first applied for a permit through the applicable INDOT District Permitting Section. This is the absolute first step a Requestor must take to begin this process. Also, the following applies to L.A. breaks/movement along Highways not Interstates.

# Requestor's Checklist

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These are the minimum required items a requestor must provide to Central Office Real Estate for a L.A. R/W modification.

- Request letter which shall include an extensive written explanation and justification for the new or relocated break along with contact information and request details.
- Deed proving the requestor's ownership of the abutting parcel of the request break.
- Legal Description and Plat of the requested line break/alteration (from a public land corner), signed and stamped by a licensed surveyor (documents to conform to INDOT standards)
- Completed W-9 Form provided by INDOT's Central Office Real Estate Division



# Central Office Property Management Responsibilities

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1. Obtain a copy of INDOT's Deed for the property originally acquired.
2. Coordinate with the District to approve the survey and plat of the requested alteration of L.A. R/W.
3. Request a "Before and After" Appraisal.
4. Request an Environmental Review.
5. Prepare Commissioner's Order with justification documents.
6. Send an "Offer Letter" with conditions to the Requestor.
7. Prepare a Quitclaim Deed and send to the Requestor.
8. Once INDOT received the Quitclaim back from the Requestor, deed will be sent to INDOT Legal, INDOT Deputy Commissioner, A.G.'s Office and Governor's Office for approval and signatures.

# Timeline for Real Estate portion of the process

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\*Please note any complexity can add significant time onto Real Estate's portion of this process\*

1. Coordinate with the District to approve the Legal Description and plat of the requested alteration of L.A. R/W.
  - 2-4 Weeks, depending on district work flow
2. Request a "Before and After" Appraisal.
  - 1-2 Weeks, depending on Work flow
3. Request an Environmental Review
  - 12-18 Months, depending on Work flow
4. Prepare Commissioner's Order, Quitclaim Deed, Ect.
  - 2-3 Days
5. Approval and signatures from INDOT legal, AG, Governor's Office, Ect.
  - 2-4 Months

# “Before and After” Appraisal

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“The Before and After analysis is a method used to look at the subject parcel before the action taken and then estimate the impact on the subject parcel after the action. Thus the resulting difference is positive, negative or neutral. The driving force in the appraisal analysis is the Highest and Best Use of the subject property.”

Source: Jim Crall, INDOT Appraiser

# “Before and After” Appraisal (Cont.)

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“The appraiser should analysis the highest and best use before the action, this includes the following:

- Zoning: What is permitted
- Utilities available
- Size of subject: This will indicate possibilities
- Shape of the subject: This will affect the utility of the parcel
- Current access
- Topography: what portions of the subject are usable
- Drainage: Flood maps
- Easements that currently impact the subject’s use
- Market area: Can dictate what would be developed
- Development costs: Current use may not be highest and best use, may be economical to redevelop.”

Source: Jim Crall, INDOT Appraiser

# “Before and After” Appraisal (Cont.)

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“The appraiser will analyze the subject as if the action has been executed, the analysis includes the previous highest and best use analysis.

The difference in value from the before to the after will indicate whether the action taken will reduce the value, increase the value or have a minimal affect.”

Source: Jim Crall, INDOT Appraiser

# Environmental Review

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During the acquisition process, Right of Way is cleared by INDOT's Environmental Team.

- If the review is less than two years old, a new review is not required.
- Important note: Excess Land is *not* cleared during acquisition by INDOT's Environmental Team and may need to be completed prior to disposition or alteration.
- This step can not be waved.

# Environmental Review (Cont.)

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This is the format our environmental team has requested Property Management uses when sending for an Environmental Review.

Please complete the following **environmental** review:

Parcel: LA Code 5278, Parcels 348 & 349

Route: U.S. 31

County: St. Joseph

Acreage: 0.53 acres

Priority: Normal Assignment

Purpose: Sale of Excess Land

Graphics and parcel information can be found at the following ProjectWise link [LA Code 5278, Parcels 348 & 349](#)

Thanks,

Note: This one has an **environmental** review completed in 2014. I have added the report to the ProjectWise link above.

# Legal Review/Governor's Office

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1. INDOT legal will closely review the entire file before approval.
  - Review will not begin until all previous steps are completed.
  - Xxxxxx
2. AG's office review of the file.
3. Lastly, Governor's Office review. Please note :
  - We don't have a deal until the Governor's Office signs the deed.
  - Payment will be required and accepted once the deed is ready for recordation.
    - The requestor will receive a copy of recorded deed in the mail as a final step.
    - Records section will place a copy in to ERMS for records retention.



# Payment

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1. District should refrain make any promises, guarantees, or estimates related to the value of LA modification.
  - Only the Governor can approve selling a property right for no money.
  - State Law requires that a disposal of a property right (LA Break) must be sold at Fair Market Value
  - This applies to private individuals as well as municipalities
2. Federal Funds may have to be reimbursement, Research is required for a determination for funding sources.
3. Lastly, Governor's Office review. Please note :
  - We don't have a deal until the Governor's Office signs the deed.
- Payment can only be accepted once the deed is received back from the Governor's Office

# Federal Highway Reimbursement

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Any time Federal funds are used to acquire a parcel or property right for a project, INDOT must reimburse any monies the FHWA contributed. This means the FHWA will be compensated the percentage of the Fair Market Value (FMV) determined by the “Before and After” Appraisal the FHWA contributed during acquisition.

INDOT Central Office is also responsible for ensuring the cashier is aware of the percentage the FHWA contributed when funds are deposited from a Right of Way sale.

# Federal Highway Reimbursement (Cont.)

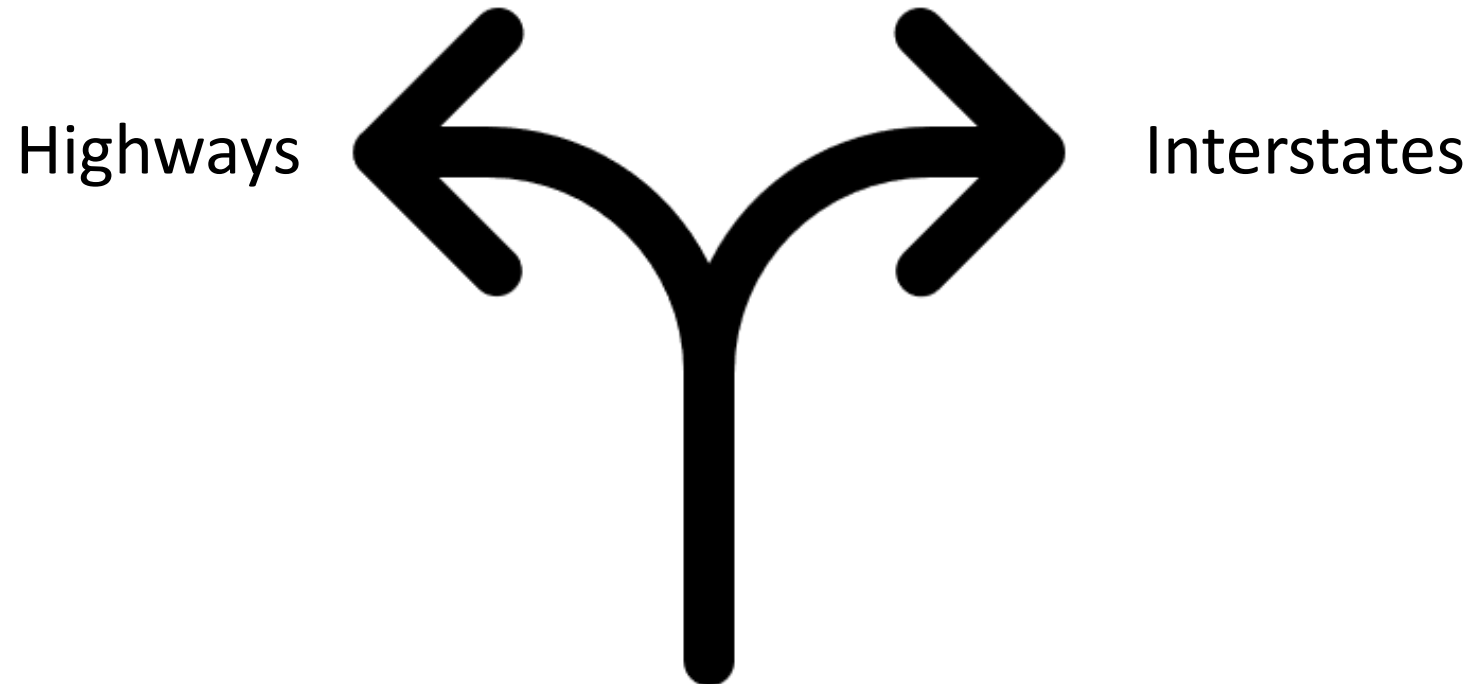
The Federal Funding Percentage can be found in LRS under the Voucher Tab. Once in the voucher tab, click on the warrant in question and the Federal Funding Percentage will appear below.

Invoice #	Payee	Amount	Fund Request ID	Federal Funding Percent	Status	Date
		\$429,000.00		80	Paid	1/7/2015

# The FHWA & L.A. Adjacent to Interstates

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The previous slides have covered how INDOT handles L.A. Breaks along highways/roadways. Limited Access Lines along Interstates follow a different set of laws and regulations which are typically more stringent.



# The FHWA & L.A. Adjacent to Interstates (Cont.)

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“It is in the national interest to preserve and enhance the Interstate System to meet the needs of the 21st Century by assuring that it provides the highest level of service in terms of safety and mobility. Full control of access along the Interstate mainline and ramps, along with control of access on the crossroad at interchanges, is critical to providing such service. Therefore, the Federal Highway Administration's (FHWA) decision to approve new or revised access points to the Interstate System under Title 23, United States Code (U.S.C.), Section 111, must be supported by substantiated information justifying and documenting that decision.”

Source: [www.fhwa.dot.gov](http://www.fhwa.dot.gov)

# The FHWA & L.A. Adjacent to Interstates (Cont.)

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“Ramps providing access to rest areas, information centers, and weigh stations within the Interstate controlled access are not considered access points for the purpose of applying this policy. These facilities must be accessible to vehicles only to and from the Interstate System. Access to or from these facilities and local roads and adjoining property is prohibited. The only allowed exception is for access to adjacent publicly owned conservation and recreation areas, if access to these areas is available only through the rest area, as allowed under 23 CFR 752.5(d).”

Source: [www.fhwa.dot.gov](http://www.fhwa.dot.gov)



# The FHWA & L.A. Adjacent to Interstates (Cont.)

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In short, the L.A. line along Interstates can only be broken or moved in very specific and rare circumstances. To read the entire policy, you can find it [here](#).