

DRPT

Rail Enhancement Fund: Program Procedure Manual



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1. General Program Description

Under § [33.2-1601](#) of the Code of Virginia, the Rail Enhancement Fund (REF) was developed within Department of Rail and Public Transportation (DRPT) in support of the public interest for the preservation and development of railway transportation facilities. The Virginia General Assembly declared it to be in the public interest that the preservation and development of railway transportation facilities are important elements of a balanced transportation system in the Commonwealth.

It further declares it to be in the public interest that the retention, maintenance, improvement, and development of the railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

The Director of DRPT administers the Program, subject to the review and the approval of the Commonwealth Transportation Board (CTB). REF is intended to support the growth of freight and/or passenger rail transportation for purposes of acquiring, leasing, and/or improving:

- railways or railroad equipment
- rolling stock
- rights-of-way
- facilities

REF also aids in assisting other appropriate entities to acquire, lease, or improve:

- railways or railroad equipment
- rolling stock
- rights-of-way
- facilities

CTB supports the use of funds for railroad projects deemed to be important elements of the Statewide Transportation System. Funding is a combination of at least a minimum of 30% cash or in-kind matching contribution from a local source. The other 70% (or balance matched) will be from DRPT funds.

The following organizations are eligible to apply for REF grants:

1. Commuter and Intercity Passenger Rail Operators
2. Freight Rail Operators
3. Regional Authorities
4. Local Governments
5. Non-profit Organizations
6. Or any combination of the above

A. Code of Virginia for Rail Enhancement Fund

§ [33.2-1601](#). Rail Enhancement Fund

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement, and development of freight and passenger railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Rail Enhancement Fund, referred to in this section as "the Fund," which shall be considered a special fund within the Transportation Trust Fund. The Fund shall be established on the books of the Comptroller and shall consist of dedications pursuant to § 58.1-1741 and such funds from other sources as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Board, the Fund for acquiring, leasing, or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities, for freight or passenger rail transportation purposes whenever the Board has determined that such acquisition, lease, or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support passenger or freight rail projects.

D. Projects undertaken pursuant to this section shall be limited to those the Board has determined will result in public benefits to a region of the Commonwealth or the Commonwealth as a whole that are equal to or greater than the investment of funds under this section. Such public benefits shall include the impact of the project on traffic congestion and environmental quality and, whenever possible, give due consideration to passenger rail capacity on corridors identified by the Board that have existing or proposed passenger rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, a local government source, federal funds for freight rail projects, or a combination of such sources.

B. Intended Project Sample Types

The Rail Enhancement Fund Program is intended to assist the following project types:

- Quick turn around, high impact projects
- Multi-year strategic program leading to a six-year program
- Increase mobility to Virginia Ports
- Preliminary service, engineering, or feasibility study
- Final engineering and design
- Acquisition, lease, or improvement of rights-of-way or facilities
- Environmental mitigation directly related to the project
- Site preparation including grading, drainage, and relocation of utilities
- Acquisition, lease, or improvement of railways, including signal and communications equipment
- Acquisition, lease, or improvement of railroad equipment
- Acquisition, lease, or improvement of rolling stock
- Public involvement expenses, as agreed
- Rail capital renewal

Ineligible scopes for this Program are:

- Railroad Operating Expenses
- Passenger Rail Subsidies
- Projects sponsored by DRPT and matched with state fund
- Investment in equipment or facilities that handle, store, process, load or unload goods and/or passengers.

C. Definition of Terms

The description of the REF program in the Code of Virginia outlines several specific terms, and parameters, that are not further defined. In working with the CTB, DRPT has defined the specific terms as follows:

- **Appropriate Entities:** refers to the eligible grantees under the REF program, including, but not limited to; freight railroads in Virginia (CSX Transportation, Norfolk Southern Railway, Bay Coast Railroad, Buckingham Branch Railroad, Chesapeake and Albemarle Railroad, Chesapeake and

Western Railway, Commonwealth Railway, Norfolk and Portsmouth Beltline, North Carolina and Virginia Railroad, Shenandoah Valley Railroad, and Winchester and Western Railroad); and other rail owners and operators (The Port of Virginia, Virginia Railway Express, and Amtrak).

- **Railways:** a permanent track that is part of a greater transportation network used for the movement of people and goods by train. Including mainline track, sidings, yards, terminals, storage tracks and all associated infrastructure necessary for operation, such as, but not limited to, signal systems; excludes industrial lead tracks and/or private storage facilities not contributing capacity to the greater rail transportation network.
- **Railroad Equipment and Rolling Stock:** Any vehicles that operate on a railway that has a primary purpose of moving people or goods; excludes construction equipment or equipment with the primary purpose of loading/unloading goods.
- **Right-of-Way:** land acquired for the direct purpose of completing an REF eligible project; required to build, operate or construct railway facilities.
- **Facilities:** facilities directly related to servicing rolling stock, which has the effect of adding capacity to the network.
- **Public Benefits:** project must have direct benefit to the highway network.
- **In-Kind Match:** eligible reimbursable expense incurred for the direct purpose of completing an REF eligible project. In-kind match parameters must be defined in application submission.

D. Applicable Standards

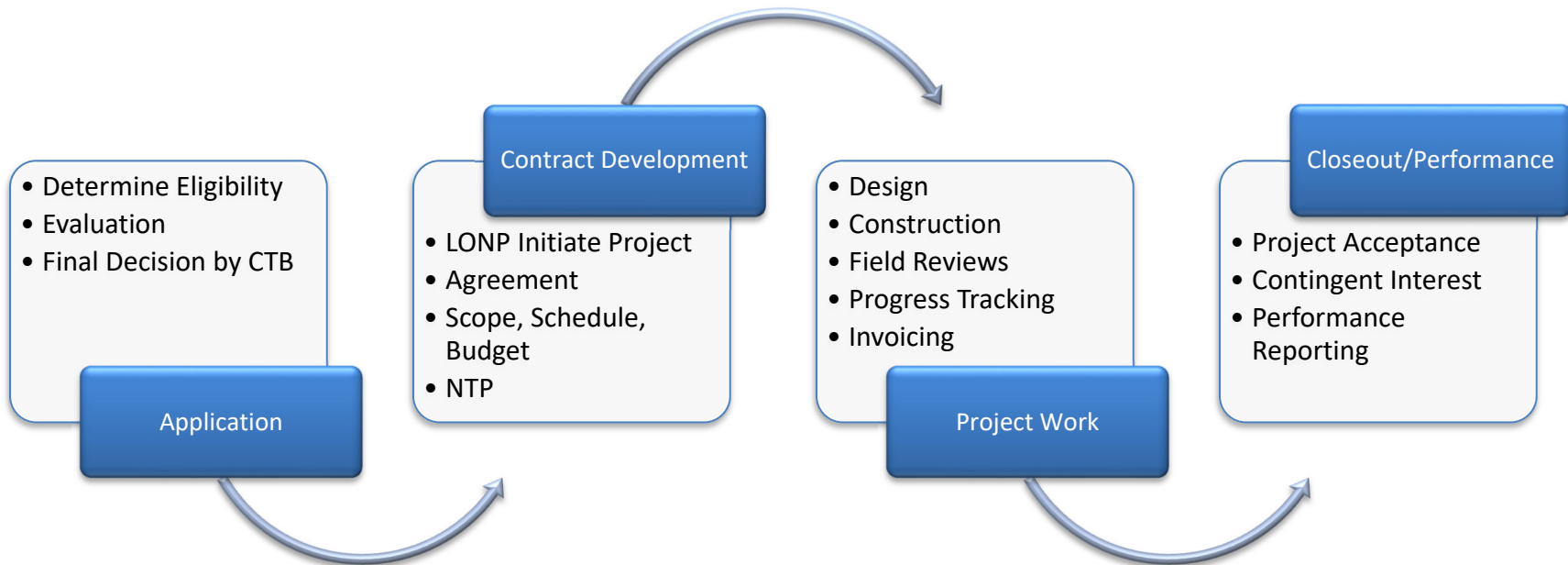
The Applicant must, at a minimum, provide Design and Construction in accordance with the American Railway Engineer and Maintenance of Way Association (AREMA). Design and construction criteria may go beyond AREMA standards to meet any agreed upon basis of design and Grantee established standards which are compliant with FRA Track Safety Standards.

The applicant also must provide or have provided continuous maintenance of the completed project.

E. Summary of Process

The basic elements of the REF program procedures are outlined in Figure 1, below, and described in further detail throughout this procedures manual.

Figure 1: REF Procedure Summary Flow Chart



1. Grant Application Process

A. Initiation

DRPT prepares announcements of the application period and requests applications. Information is also posted on the DRPT website. DRPT may call upon existing applicants to seek interest and offer assistance necessary to enable the potential applicants to submit a timely application. DRPT may also develop projects for consideration.

Applicants must submit applications within the advertisement period as identified by DRPT. The application must include a comprehensive project description, including the scope of the project, projected schedule and budget, and expected benefits of the project; allowing DRPT to appropriately evaluate the application and understand the project impacts and benefits. The project application criteria worksheet is included as:

Example 1-1: Application Criteria Worksheet

Applications are submitted via the Online Grant Application (OLGA) system, located at: <https://olga.drpt.virginia.gov>. (The OLGA website includes instructions for establishing an account and using the online system). OLGA assigns each application a reference number, provides a submission confirmation to applicants, allows applicants to track applications, and stores and backs-up each application electronically to ensure the application is not lost or compromised.

B. Project Evaluation and Selection

Using the OLGA system, the DRPT Project Manager applies two levels of review to evaluate each application. The first level, includes an evaluation of the application eligibility and completeness. If the application has been submitted by an ineligible organization or is an ineligible project type, the application will not be approved, nor reviewed further for scoring and evaluation. During the first level of review, the DRPT project manager also evaluates the completeness of the application and will request additional information from the applicant, if needed.

The second level of review includes a scoring evaluation using the checklist included in:

Example 1-2: Application Checklist

The checklist evaluates the benefits of the project, assigns a prioritization score to each application, and assists DRPT and the CTB with the evaluation and approval process. The checklist includes:

- Benefit Cost Analysis
- Project readiness evaluation
- Match ratio determination
- Assessment of the applicants previous project performance
- Consistency with state, regional, and/or local transportation plans and initiatives
- Determination if the application is a study, construction, or capital renewal project
- Evaluation of both freight and passenger benefits

C. Project Approval

Based on the application review and checklist criteria, DRPT develops recommendations for the CTB. The CTB will approve and allocate funds to specific projects into the Six-Year Improvement Plan (SYIP).

Once CTB has made selections, DRPT:

- Sends notification to the Applicants of CTB's decision
- Notifies the public of approved projects
- Posts approved projects on DRPT website
- Issues Letter of No Prejudice on specific projects with conditions, if necessary

2. Contract Development

A. Letter of No Prejudice

The letter of no prejudice is an agreement to allow the Grantee to proceed with project development with certain conditions attached. It is mostly used to allow the Grantee to begin work on developing a more detailed Scope, Schedule and Budget; including Preliminary Engineering up to 30%, clearing any environmental work, and providing a project cost estimate. The Letter of No Prejudice is included as:

Example 2-1: Letter of No Prejudice

B. Agreement Development

The DRPT Chief Financial Officer or his designee assigns an agreement reference number to each approved application. Using the further developed scope, schedule and budget, and in coordination with the Attorney General's Office, the DRPT Project Manager prepares a Project Agreement and sends two sets of the Agreement to the Grantee for signature. Once the Grantee signs and returns the Agreement, the Director of DRPT reviews and signs the Agreement. The DRPT Project Manager retains one Agreement set for the master project file and returns the other set to the Grantee. A sample project agreement is included as:

Example 2-2: Project Agreement

C. Notice to Proceed

For the REF, the Notice to Proceed (NTP) is a two-step process; 1) submission and review of project plans, and 2) issuance of the NTP.

Step 1: Plan Reviews

The execution of the Agreement serves as the initial NTP by DRPT for the work associated with:

- Completion of any applicable environmental review process
- Completion of preliminary engineering
- Developing the detailed schedule and budget for final design and construction

The Grantee shall, prior to full NTP, provide a detailed Project Budget, Project Schedule, Scope of Work, 30% Preliminary Design plans and any applicable environmental planning. If DRPT agrees, certain sensitive information that is not necessary for DRPT to provide NTP, can be redacted as necessary. Examples of the detailed project schedule, scope and budget are included as:

Example 2-3: Project Budget and Schedule

Example 2-4: Scope of Work

The submission of 30% preliminary design plans shall include:

- Plan Title Sheet and Keyplan
- Sheet List and Legend
- Right-of-Way Lines
- Utility Identification
- General Notes
- Typical Sections
- Track Diagrams
- Existing and Proposed Track Centers
- Limits of Construction
- Adjacent Property Owners
- Title Block Information
- Adjacent Structures and Railroad Infrastructure
- Potential or Confirmed Wetlands
- Mileposts and Valuation Stations
- Valuation Map References
- Other Applicable Areas

DRPT shall review and provide written approval of the plan and specification submittal from Grantee. During the plan review efforts, the DRPT Project Manager should review any changes to scope or limits of work different than that described in the Agreement. DRPT will review the plans for completeness and complete the Plan Review Report, include as:

Example 2-5: Plan Review Report

Upon the review, if there are items from the plan review requiring additional information, the DRPT Project Manager sends the Plan Review Report with a Request for Plan Revisions and/or additional information to the Grantee for their action. The comments should be made clear as to what actions are expected, and should provide a time frame for responses from the Grantee.

Step 2: Written Notice-To-Proceed

Once the plan review is complete, DRPT will issue in writing a second NTP for this work. The Grantee is required to design and construct the project in accordance with the most recently approved Project Budget and Project Schedule. A sample NTP letter is included in:

Example 2-6: Notice to Proceed

3. Project Performance and Monitoring

A. Project Bid for Construction

Once the particular project has been through the Preliminary Engineering (Environmental, Permitting, and Design) phases and when construction documents have been issued and reviewed by DRPT, the Grantee

will typically determine whether or not they will accomplish the work with their own forces or do the work with outside forces. If the Grantee plans to utilize outside forces, they must competitively bid the project, per the requirements included in the signed Agreement.

Final drawings will be utilized in a pre-bid or pre-construction process. Once DRPT has issued the NTP for construction, and the bid/award process has been accomplished (if applicable), construction of the project would commence. DRPT or their representative(s) should be included in all preliminary documentation and communication concerning the above noted processes. DRPT should also be included on the invitation list for any type of pre-bid or pre-construction conferences where applicable.

B. Pre-Construction

DRPT should be invited to any pre-construction conference scheduled. This would be the point at which the submitted Scope and Schedule would be discussed, and assess if any changes are needed. DRPT should be made aware of all permitting processes, utility location / re-location schedules, environmental and safety processes, as well as the Contractor's Construction Schedule, phasing, and expected time-tables for accomplishing certain milestones of the project.

Discussions should focus on staying on budget, as well as on time. Any questions concerning these issues should be brought to the forefront, so that action/open items can be addressed and assigned, with definable anticipated resolutions. This will insure that projects can move forward as efficiently and expeditiously as possible for the benefit of all stake holders involved.

The Pre-Construction meeting is also the forum where the following should be discussed:

- Site visits
- Invoice verification
- Provision of backup for invoices
- Monthly project status reports
- Updated SOV
- Project communication and documentation
- Use of contingency (if provided for)

C. Field Project Construction Reviews

The DRPT Project Manager performs a pre-construction site visit for project reporting, if applicable. At reasonable intervals and during major milestones, a representative from DRPT will complete a site visit and prepare a site visit report, included as:

Example 3-1: Site Visit Report

This report will be included in the invoice processing procedure. Major milestones requiring a site visit may include:

- Pre-construction
- Materials on hand
- Payment request

- Post-construction
- Close-out, or
- Any other concern or consideration that might arise

In general, field site visits include verifying items such as:

- Invoice amounts
- Quantities
- Schedule
- Onsite progress vs. project progress reports submitted monthly
- Anticipated completion date
- Discussing/understanding any scope changes

D. Reporting Process and Intervals

The Grantee must submit project progress reports with every invoice. This report should update the status of the project scope, budget, and schedule. Progress report included as:

Example 3-2: Progress Report

Findings and Recommendations:

QA/QC reviews of the project are within the purview of DRPT project oversight responsibilities. It is important for the DRPT Project Manager to keep accurate and up-to-date files and other document control proceedings in order for DRPT to have an accurate project history. The DRPT Project Manager shall make particular efforts in examining and documenting the project life cycle.

The Grantee is encouraged to seek and use Small, Women, and Minority (SWAM) enterprises in relation to this Agreement. Further details regarding SWAM information is included under code section § 2.2-4310 of the Code of Virginia, and a sample Grantee quarterly SWAM expenditure report is included as:

Example 3-3: SWAM Quarterly Report

Using the Schedule and Budget in Project Reviews

REF and MOU projects have schedule and budget requirements included in the agreements. These documents will show certain project categories and milestones, such as:

- Study Work
- Engineering
- Environmental Planning/Permitting
- Construction
- Signal and Communications
- Project Close-Out

DRPT requires the Grantee to provide regular project updates, usually in the form of the Progress Report, cited above. Any updates to the schedule or budget should be noted in the project progress report and a reason/justification should be provided. The Grantee should also provide an updated schedule and

budget. Therefore, the project status report provides a clear comparison between the percent complete of the budget and percent complete of the schedule.

After analysis of the project progress report, the DRPT Project Manager may require additional information regarding the project status. Additionally, during the project site visit, the DRPT Project Manager can review the project work “completed to date” and determine with the Grantee if the percentage complete provided in the project progress report is accurate.

Use of Contingency during Construction

The use of contingency is outlined in MOU and REF agreements. Contingency is to be utilized as the definition of the term implies – “a safeguard against unanticipated, unforeseen, unexpected conditions or changes”. During the project design and preliminary engineering phase, the Grantee shall investigate existing conditions and finalize the scope of the project in a methodical manner to identify as many “knowns” that will be discovered during the construction. The contingency line item is provided for those unforeseen conditions. It is not meant for adding scope to the project.

Distribution of Information within DRPT

For documentation and distribution of information within DRPT, it is important to document information and provide that documentation to the project file. There are other forms of documentation (i.e. invoice tracking log; release for payment memo, etc) that are provided as part of Project Management internal to DRPT. The document control process should be kept current by the DRPT Project Manager. It is important to keep accurate updates of all logs and status reports, allows the DRPT Chief of Rail Transportation to be informed of the project status and any other open project action items.

4. Invoicing Process

The following invoicing procedure provides a minimum requirement guideline for reviewing and processing invoices. This includes guidance for the review of invoices received from Program Grantees and MOU projects. It has been developed for DRPT Program staff as an interim procedure in order to track, review and administer submitted invoices. The DRPT Project Manager assigned to the respective project is responsible and will take ownership of assuring that the invoice is reviewed and processed within 20 days of receipt. This guidance ensures that an approved invoice amount can be paid within the required 30 days. The 30-day turn around time (30-day prompt pay) is mandated by the Virginia Public Procurement Act.

A. Invoice Submission

The grantee will submit invoices through the OLGA system. Using the Grants Management system in OLGA, the Grantee will create and submit a new reimbursement request. The Grantee is responsible for choosing the correct project to invoice against, noting the correct invoice amount, and attaching supporting documentation prior to invoice submission. Using OLGA, the Grantee is able to track the status of each reimbursement request during the DRPT review process.

B. Invoice Review

The invoice review process is a coordinated effort between the DRPT Division of Finance and Administration (Finance) and the assigned DRPT Project Manager. The review process has three basic steps:

1. Finance receives and assigns the invoice to the DRPT Project Manager
2. The DRPT Project Manager reviews and approves the invoice
3. Finance batches the invoice for payment by the Virginia Department of the Treasury

A more detailed description of the invoice review process is included below.

Step 1: Invoice Receipt and Initial Review

After the reimbursement request has been submitted via OLGA by the Grantee, DRPT Finance receives the invoice, assigns a voucher tracking number and reviews the invoice for accuracy and completeness. This first step of review is to make sure that the invoice was accurately submitted by the grantee and is assigned to the correct project, and is not missing major pieces of information such as the backup documentation. Finance then assigns a DRPT Accountant to review the invoice.

The assigned DRPT Accountant reviews the invoice to ensure that the backup documentation and sub-categories of charges correctly add to the total invoice amount. Upon review, the DRPT accountant notes the results of their review and assigns the invoice to the DRPT Project Manager.

Step 2: Project Manager Invoice Review

Once the invoice is assigned to the DRPT Project Manager, the charges included in the invoice and the backup documentation are reviewed for appropriateness and to ensure that reimbursement regulations are followed. The initial review by the DRPT Project Manager includes items such as the following:

- Confirm a signed agreement and notice to proceed are in place
- Review agreement for terms of invoicing and general requirements of the project
- Confirm invoice matches the project's scope, schedule and budget
- Confirm inclusion of project progress report
- Verify percent of budget expenditure is appropriate with project schedule and progress report

Once the general project and grant agreement details have been reviewed and confirmed, a more detailed invoice review by the DRPT Project Manager is required. The DRPT Project Manager is encouraged to make working notes during invoice review and consider items such as:

- Are the charges appropriate for work necessary to complete the project?
- Are materials, locations and personnel appropriate for project work?
- Are Virginia travel guidelines appropriately applied?
- Is the backup sufficient to detail project costs?
- Are receipts for materials and expenses included where applicable?
- Are timesheets for labor included where applicable?

The DRPT Project Manager is responsible for working with the Grantee to gather additional information or clarification when needed.

Step 3: Approval/Rejection for Payment

Once the DRPT Project Manager has satisfied their review the invoice is either rejected or approved for payment. Rejection of an invoice may occur if inappropriate charges have been found and/or if the invoice needs to be resubmitted due to extensive clarification needed by the Grantee. In either case, the Grantee is encouraged to correct any issues and resubmit the reimbursement request. If the reimbursement request is resubmitted, the invoice review process begins again.

If the charges and invoice documentation are appropriate, the DRPT Project Manager approves the invoice for payment. Once approved for payment, the DRPT Controller provides a final QC of the invoice process – ensuring that the appropriate levels of review have taken place – and releases the invoice for payment by the Virginia Department of the Treasury.

5. Grant Closeout and Post Construction Monitoring

A. Project Acceptance

The Grantee must complete the project according to the approved scope, schedule, budget and agreement. Upon project completion, Grantee has 90 days to submit the final invoice to DRPT. DRPT performs a final site review and processes final payment. Grantee is required to maintain and make available all documentation regarding project cost for a period of three years from the date of final payment from DRPT.

B. Funds Analysis

Upon acceptance and payment of the final project invoice, any unused funds will be returned to the REF fund.

C. Tax Identification Forms

REF program does not require Grantees to submit W-9 tax forms.

D. Contingent Interest of Ownership

Acknowledgement

For each project using DRPT State Funds, DRPT retains an ownership interest in the materials of the project for a given period of time. Any change, sale or transfer of the project improvements must be approved by DRPT, per the terms of the signed agreement.

Agreement Performance Requirements Schedule

To develop the ownership interest dollar value in the project, DRPT uses the sum of the public funds invested. This amount is amortized over the performance period, as defined in the signed agreement.



At the end of the ownership period, if all requirements have been reached, the DRPT Project Manager prepares an Acknowledgement of Expiration of DRPT's Interest which is signed by the Director of DRPT and sent to the Grantee, included as:

Example 5-1: Expiration of Performance Requirement