

#### 8.01K. Third Party Fees on Land Acquisitions

1. Under the following described circumstances, agencies, departments and institutions may utilize third party entities ("Facilitator") to facilitate land acquisitions by the State, so long as the Facilitator's specific utilization by the agency, department, or institution has been approved by the Commission prior to the Facilitator's acquisition of the land sought to be acquired by the State:

- a. The land cannot be acquired for fair market value by the State directly because of timing, contract terms or other issues; or
- b. The third party intends to transfer the land to the State as a gift.

2. In the event that a Facilitator is used pursuant to Paragraph 1 above, Facilitator Costs may be reimbursed without additional approvals by the Commission upon satisfaction of the conditions set forth in this paragraph. "Facilitator Costs" shall be reasonable costs paid by the Facilitator to persons or entities unrelated to the Facilitator which are necessary and/or desirable (as determined by the Facilitator and the agency, department, or institution) in order to acquire the land. Facilitator Costs may include, but shall be limited to, title search and commitment fees, title insurance policy premiums, closing costs paid to a closing agent, survey fees, environmental assessment fees, recording fees, transfer taxes, and appraisal fees. Facilitator Costs may additionally be defined to include legal fees not in excess of \$5,000 per acquisition, so long as they are based on hourly rates not exceeding the hourly rates set by the Attorney General for the payment of outside counsel legal fees. In the event that any other type or category of cost not specifically identified above is requested by a Facilitator to be reimbursed, such cost must be approved as to both type and amount first by the agency, department, or institution acquiring the land, then by STREAM, and finally by the Commission.

3. Notwithstanding anything stated in Paragraph 2 to the contrary, no Facilitator Costs shall be reimbursed unless an estimate of the Facilitator Costs was presented by the agency, department, or institution at the time of the Commission's initial approval of the Facilitator's utilization, and unless the Facilitator Costs actually incurred, and for which reimbursement is being sought, have been first approved by the agency, department or institution for which the land is being acquired, and then determined by STREAM to be reasonable, taking into account the complexity of the acquisition. The agency, department, or institution utilizing the Facilitator shall, on the next quarterly report inform the Commission of all line item costs as well as the reasons for any specific reimbursed Facilitator Cost(s) exceeding the previously presented estimate by the lesser of the sum of \$500 or twenty percent of the previously presented estimate for each individual line item. Additionally, either STREAM or the agency, department or institution for which the land is being acquired may reject requests for reimbursement of Facilitator Costs if: (i) the provider of such service is not on the approved State vendor list, and/or (ii) the State does not receive a benefit from the Facilitator's payment of such costs, such as by obtaining a reduced title policy premium or being able to reuse without additional fee the survey, appraisal or environmental assessment.

4. The State shall encourage Facilitators to use a competitive process to select vendors providing services that may be reimbursed as Facilitator Costs. Notwithstanding the foregoing sentence, the State shall require Facilitators to use a competitive process for said vendor selections if any of the vendors chosen to provide services for which reimbursement is sought is not on the approved State vendor list, in which case the Facilitator shall adequately document the competitive process; shall submit same to the agency, department or institution; and shall at the same time, on the next quarterly report, inform the Commission of the selection.