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INFORMATION MEMORANDUM NO. 16

May 31, 2011

TO: County Grant Administrators & County Representatives/Surveyors

FROM: Keith E. Lambert, P.S., Deputy Director *KEZ*
Bureau of Construction Codes

RE: **2011 and Future Grants**

The attached information has been revised to clarify misunderstandings between the Department's translation and the user's interpretation of the original document issued on November 18, 2010. Additionally, specific cites to the statutes, rules, model county plan and grant agreements are listed for reference.

This document was developed to provide direction towards program completion by promoting a uniform understanding based upon the above mentioned documents as well as program advice from the Office of the Attorney General, performance audit of the Bureau of Construction Codes conducted by the Office of the Auditor General, and department personnel involved with the Remonumentation Program.

Please review the attachment regarding each of the topics identified and share this information with all program participants. All information contained herein will be posted on the Survey and Remonumentation website and updated when necessary to coincide with the annual grant process. If you have any questions regarding this documentation, please contact the OLSR office at (517) 241-6321, fax (517) 241-6301, or e-mail bccinfo@michigan.gov.

KEL:NJ

cc: Irvin J. Poke, AIA, Director, Bureau of Construction Codes

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2011 and Future Grants

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Guiding Principles

1. **The State Survey and Remonumentation Act**, 1990 PA 345, MCL 54.261 *et seq.*, was enacted to allow for the perpetuation of the original Public Land Survey System (PLSS) corners established and monumented by the Federal Government.
 - a. The original Public Land Survey System corners established and monumented by the federal surveys are held to be without error as the proper corners and true positions.
 - i. According to the Act of February 11, 1805 in Title 43 of the United States Code, the corners originally established and monumented by the Surveyor General are unchangeable. All the corners marked in the public land surveys shall be established as the proper corners of sections or subdivision of sections which they were intended to designate. After these corners are fixed in the field by the original surveyor, they are not subject to change on discovery of errors after private rights have intervened.
 - ii. The 2009 BLM Manual of Survey Instructions reiterates these facts in accordance with federal law:
 - 1) Chapter 1-29. *“That the boundaries and subdivision of the public lands as surveyed under the approved instructions by the duly appointed surveyors, the physical evidence of which survey consists of monuments established upon the ground, and the record evidence of which consists of field notes and plats duly approved by the authorities constituted by law, are unchangeable after the passing of title by the United States.”*
 - 2) Chapter 3-4. *By law, (1) the corners marked in public land surveys shall be established as the proper corners of sections or of the subdivisions of the sections which they were intended to designate; (2) the boundary lines actually run and marked shall be and remain the proper boundary lines of the sections or subdivisions for which they were intended, and the lengths of these lines as returned shall be held as the true length thereof; and (3) the contents of each section or subdivision of section returned shall be held and considered as containing the exact quantity expressed (Rev. Stat. 2396; 43 U.S.C. 752).”*
 - b. All original PLSS corners, including closing corners, established and monumented by the federal surveys shall be restored and perpetuated through the Remonumentation Program.

- c. It is the paramount concern for surveyors completing retracement work to restore a corner to its original position through diligent and impartial judgment.

2. **BLM Manual of Survey Instructions** and all applicable federal and state laws shall be followed when completing work for the State Survey and Remonumentation Program.

- a. While the Program directs that monumentation surveyors be contracted to perpetuate the original PLSS corners and that county peer groups be established to act as advisors for the ratification of these corners, it does not grant the authority to waive requirements associated with federal and state law.

Administrative Rule 54.206(2) and the annual grant agreement requires that the Grantee comply with all applicable federal, state and local laws and ordinances in performance of the annual contracts.

- b. The BLM Manual of Survey Instructions addresses its use as an advisory document when the Federal government does not maintain an interest in the lands being surveyed. Chapter 1-6 of the 2009 Manual, however, specifies that when enacted or adopted by a local authority, the principles, practices, procedures and policies outlined therein become “...explicitly applicable to the boundaries of non-Federal land...”

The BLM Manual of Survey Instructions has been adopted by both the State Survey and Remonumentation Act and the Land Corner Recordation Act and should be followed explicitly when recovering, restoring and filing corner records within the State of Michigan.

- i. 1990 PA 345, MCL 54.268(2)(a) requires the completion of the program “...under the guidelines of the manual of instructions for the survey of the public lands of the United States, 1973, prepared by the bureau of land management of the department of interior, technical bulletin 6, or subsequent editions.”
- ii. 1970 PA 74, the Land Corner Recordation Act, requires that the surveyor completing the Land Corner Recordation Certificate (LCRC) complete the document to certify that the work completed was done “...in conformance with regulations and rules therefore as required in the current manual of survey instructions of the United States Department of the Interior, Bureau of Land Management or by a decree of a Court of Law...”

Program Administration

The State, in partnership with each County, is responsible for ensuring the contractual work complies with minimum program requirements, using the State Survey and Remonumentation Fund appropriately, and resolving non-compliant work issues.

Effective January 1, 2011, any work submitted by a county that does not meet program specifications will not be eligible for reimbursement, including any work performed for maintenance or compliance issues. All costs and liability for non-compliant work remains the responsibility of the county and/or contracted surveyor.

1. **Contract/Monumentation Surveyor:** Contract/monumentation surveyors must complete all work according to program requirements as mandated by federal and state law and other applicable rules, guidelines, manuals, instructions, etc., and are liable for all corners and records filed for the program.

Contract/monumentation surveyors are prohibited from charging administrative costs to the program for overseeing subcontractors or purchasing supplies.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1964 PA 9; 1970 PA 74; 1990 PA 345; 1980 PA 299; Section II, Definition L of the County Plan; Section IV, Grant Administration of the County Plan; Sections 2.9 and 3.3.B of the Grant Agreement.

2. **County Grant Administrator:** The County Grant Administrator is appointed by the County Board of Commissioners to represent the county's interest in regard to the program. This position is responsible for communicating with the Office of Land Survey and Remonumentation (OLSR) concerning all administrative and financial issues regarding the grant.

Grant Administrator duties include:

- a. Compiling and submitting the yearly grant application by December 31st of the year preceding the grant year.
- b. Compiling and submitting the yearly Completion Report by February 28 or 29 of the year following the grant.
- c. Selecting the monumentation surveyors using Qualifications-Based Selection (QBS), which provides for maximum open and free competition involving the use of the State Survey and Remonumentation Fund.

- d. Negotiation of contractual surveyor costs.
 - 1) Determines fee structure based upon scope of work.
 - 2) Negotiations take place after firms/professionals are selected.
 - 3) Surrounding county monumentation contracts may be considered for negotiations.
 - 4) Surveyors/firms which contract with the county cannot negotiate fees on behalf of the county.
- e. Overseeing the county representative/surveyor and monumentation surveyors, holding them accountable for fulfilling their contractual agreements with the county by meeting program requirements.

Reference: MCL 54.274.(1)(a); Rule 54.201.(1)(b); Rule 54.205.(2); Rule 54.206.(2); Rule 54.207; Section IV, Grant Administration of the County Plan; Sections 1.1, 1.4, 2.9 and 4.1 of the Grant Agreement.

- 3. **County Plan Completion:** The County is responsible for determining the number of corners established and monumented in the original public land surveys.

Beginning with the 2013 grant application, all counties will report their overall completion status using the PLSS notes and maps to determine the number of original corners established and monumented by the Federal Government.

Annually thereafter on all grant applications and completion reports, each county will report their progress towards completion of these corners.

Reference: MCL 54.268; MCL 54.274; Section V, Plan Execution of the County Plan; Section VII, Perpetual Monument Maintenance Plan of the County Plan.

- 4. **County Representative/Surveyor:** The County Representative is the elected County Surveyor or the professional surveyor appointed by the County Board of Commissioners in a county that does not have a county surveyor. The County Representative/Surveyor is responsible for communicating with the OLSR concerning survey/technical related issues regarding the peer group, research/monumentation, and establishing state plane coordinates. When the correspondence is specific to surveyor activities, we may correspond directly with the County Representative/Surveyor and provide a copy to the County Grant Administrator.

Effective with the 2011 grant program, the County Representative/Surveyor is no longer required to sign the Grant Application, Progress, and Completion Reports, since the contracting authority rests with the County Grant Administrator. The County Representative/Surveyor may sign the Grant Application beside the County Grant Administrator's signature at the request of the county.

We encourage the County Representative/Surveyor to correspond with other agencies, departments, etc., regarding any construction projects which may temporarily remove PLSS corners during the course of the project, i.e., Michigan Department of Transportation, county road commissions, county drain commissioners, public works departments, utility companies, etc.

County Representative duties include:

- a. Overseeing all monumentation work performed to ensure its compliance with Program requirements as mandated by federal and state law and other applicable rules, guidelines, manuals, instructions, etc.
- b. Appointing the peer group members.
- c. Planning and chairing all peer group meetings.
- d. Creating and maintaining a filing system for all dossiers.
- e. Providing the required work program for the yearly grant application, including:
 - 1) Analysis of county's level of completion expected by December 31 of the current grant year.
 - 2) Synopsis of the work completed by December 31 of the grant year.
 - 3) Proposed work program for the following year.
- f. Establishing the requirements and procedures for:
 - 1) Corner restoration, rehabilitation and remonumentation, including:
 - a) Researching the history of corners.
 - b) Field reconnaissance and corner recovery.
 - c) Reporting.
 - d) Marker placement.
 - 2) Geodetic control stations recovery, including:
 - a) Researching the history of stations.
 - b) Field reconnaissance, station recovery and reporting.
 - 3) Perpetual monument maintenance of all PLSS corners and geodetic control stations.

Reference: MCL 54.269; MCL 54.274.(1)(a); Rule 54.201.(1)(b),(f) and (g); Rule 54.205.(2); Rule 54.207.(1); Section IV, Grant Administration, Item A of the County Plan; Section V, Plan Execution of the County Plan; Sections 1.1 and 1.4 of the Grant Agreement.

5. **Court Cases:** We are currently aware of the following three decisions involving corners perpetuated through the Remonumentation Program. Please be mindful that the courts have the jurisdiction for resolving property line disputes and it is not within the program's purview to determine property rights. Copies are available on our website:

- a. *Greenview v Pettis, Court of Appeals Docket No. 279109*
- b. *Morelli v Tudor, Court of Appeals Docket No. 263814*
- c. *Schmidt v Heppinstall, Court of Appeals Docket No. 285071*

6. **Delegation of Duties:** If a county wishes to assign or delegate any of its duties, it must have prior written consent from the Department of Licensing and Regulatory Affairs (DLARA). If a surveyor is performing the functions of the Grant Administrator and County Representative/Surveyor, the surveyor and his/her firm are prohibited from entering into an additional remonumentation contract with the county.

Reference: Section IV, Grant Administration of the County Plan; Section 4.3 of the Grant Agreement.

7. **Grant Changes:** Any changes to the approved grant agreement must be requested in writing and approved by the OLSR prior to work being performed. The request must specify reasons for the modification, and a copy of the approved request must accompany the completion report.

Reference: Section 2.1 of the Grant Agreement.

8. **Grant Formula:** The existing grant formula will continue to be utilized. Since only part of the formula is mandated by the act, either a statutory amendment or rule change should be sought if it is desirable to revise the annual grant formula.

Reference: MCL 54.271; MCL 54.272; Rule 54.208; Section XII, Annual Funding Availability of the County Plan; Section 1.0 of the Grant Agreement.

9. **Ineligible Expenditures:** Please see Appendix A in your approved County Plan for eligible items. Any expenditure which cannot qualify as a research/monumentation, peer group, determination of coordinates or recovery of control station cost will need to be identified with justification provided for consideration by our office.

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The following expenditures will not be reimbursed from the Survey and Remonumentation Program fund:

- a. Attorney/legal fees incurred by the county for litigation resulting from the performance of a monumentation contract.
- b. BLM Manuals in excess of one per county, to be stored and maintained by the County Representative/Surveyor.
- c. Beverages and food.
- d. Business cards.
- e. Carsonite posts, concrete, monument boxes/covers, tree signs, and witness tags which are not part of the standard marker included in the County Plan.
- f. County or consultant/contractor insurance fees.
- g. Equipment, maintenance fees, warranty fees including:
 - 1) Computers, plotters, printers, scanners, software.
 - 2) Continuously Operating Reference Stations (CORS) and related items.
 - 3) Standard survey and safety equipment.
 - 4) Vehicles, four wheelers.

Equipment may be rented and shall be included in the monumentation surveyor's invoice. The circumstances requiring equipment rental may be explained on a Land Corner Recordation Certificate, but shall be provided in the county narrative which accompanies the completion report.

- h. Grant application preparation expenses, e.g., salary/wages, printing, and postage/shipping.
- i. Internet and telephone services. May be considered as administrative overhead costs.
- j. Legislative lobbying, bill analysis/development.
- k. Membership dues, license fees, continuing education.
- l. Office rent and storage expenses, e.g., LCRC binders, dossier scanning, file cabinets, fire-proof safes, and concrete vaults. Dossier scanning may be considered a research expense; however, county plans will need to be amended to allow for reimbursement for the maintenance and storage of records.
- m. Seminars, conferences, annual meetings.

Reference: MCL 54.266; MCL 54.268; MCL 54.270; MCL 54.271; MCL 54.272; 1970 PA 74; Rule 339.17403.(8); Appendix A, Items Eligible for Grant Funds of the County Plan; Sections 1.0 and 3.3 of the Grant Agreement.

10. Submittal Dates:

- a. **Applications:** 1990 PA 345 prohibits the approval of any grant application not received by December 31 of the preceding grant year. The Department will not grant appeals for counties that fail to submit their application by the deadline, and the county will not be eligible for a grant for the applicable grant year.
- b. **Completion Reports:** Completion reports and all required documentation need to be submitted by the date specified in the annual grant agreement.

Reference: MCL 54.270; MCL 54.274.(1)(a); Rule 54.201.(1)(e); Rule 54.207.(1); Sections 1.1 and 1.4 of the Grant Agreement.

11. Work Submitted for Previous Grant Years:

- a. **Noncompliance:** Work submitted which does not meet minimum program requirements is the responsibility of the county and/or contracted surveyor. Final payments and future grants may not be authorized until program compliance requests have been resolved.

Upon discovery of non-compliant work, the state will contact the county requesting the work be brought into compliance. It is the monumentation surveyor's responsibility to bring previously submitted work into compliance if requested by the state and county. If the monumentation surveyor refuses to bring the work into compliance, then the county may contract with a different monumentation surveyor to resolve the discrepancy. If the county is unable to remedy the outstanding work for program compliance, then the state has the ability to not issue final payments or future grants according to the Act and Administrative Rules.

- b. **Reimbursement:** When the OLSR encounters work submitted that is not in compliance with program requirements, expenditures will not be reimbursed. Any discrepancies the county/contractual surveyor discovers due to additional/new evidence being revealed will be eligible for nominal reimbursement.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1964 PA 9; 1970 PA 74; 1980 PA 299; MCL 54.270; MCL 54.274.(1)(c); MCL 54.275.(2); Rule 54.206.(2) and (3); Rule 54.207.(1); Sections 3.0, 3.3, 3.4 and 4.1 of the Grant Agreement.

Grant Application and Agreement

Costs incurred to compile and submit the yearly grant applications are not eligible for reimbursement, including, but not limited to, salary/wages, printing, postage/shipping.

Research and Monumentation are combined on the Grant Application, Work Progress, and Completion Reports effective for the 2011 grant program. Since all research needs to be updated for the year in which the corners are monumented, the research date should be the current grant year or the previous grant year if the corners were not completed and a narrative was provided with that year's Completion Report. Contractors should continue to break down all work on their invoices by Town-Range, Corner Code and work category (Research/Monumentation, Setting of Coordinates, and Control Station Recoveries).

1. **Administrative Services:** A maximum of **15 percent** of the total grant includes the following:

- a. County Grant Administrator and any county personnel assigned to the program.
- b. County Representative/Surveyor Fees.
- c. General office supplies, such as ink, paper and postage.
- d. County indirect costs/overhead fees.

An itemized accounting for the County Grant Administrator and all non-contractual staff working on the program shall be provided, including:

- i. Name and title of person.
- ii. Description of duties/functions/tasks performed for the program.
- iii. Hourly rate of pay, include supporting documentation from appropriate county office.
- iv. Estimate of hours to be billed to the program, broken down by work category.
- v. Estimate of fringe benefits charged to the program.

Requests for administrative services greater than 15 percent require thorough justification before an allowance may be granted.

Reference: MCL 54.270; MCL 54.272.(1)(e); MCL 54.273; Rule 54.201.(1)(e); Rule 54.207.(1).

2. **Contractual Survey Services:** A minimum of **85 percent** of the grant shall be dedicated to Contractual Survey Services, which includes the following:

- a. Corner Restoration, Determination of Coordinates, Control Station Recoveries
 - i. List all PLSS corners planned to be restored, rehabilitated and remonumented during the coming grant year, sorted by town-range and corner code.
 - ii. List all PLSS corners for which coordinates are to be established, sorted by town-range and corner code.
 - iii. List all geodetic control stations to be recovered.

- b. Peer Group.
- c. Monumentation Supplies (recording fees and monumentation-specific supplies, such as monuments and markers).

If an administrative allowance is granted, Contractual Survey Services may be less than 85 percent of the total grant.

Reference: MCL 54.270; MCL 54.272.(1)(e); MCL 54.273; Rule 54.201.(1)(e); Rule 54.207.(1).

3. Itemized Expenditure Estimates: The following information shall be itemized and submitted as part of the Grant Application. Note: The OLSR may request additional information when necessary to verify proposed expenses.

- a. Itemized corner/coordinate listing for each proposed monumentation surveyor, including:
 - i. Cost/Corner for Research/Monumentation.
 - ii. Cost/Corner for Determination of Coordinate Values.
- b. Itemized accounting of each proposed Peer Group Member, including:
 - i. Estimated number of Peer Group Meetings to be held.
 - ii. Estimate of fees/rate to be paid to each Peer Group Member.

Reference: MCL 54.270; MCL 54.272.(1)(e); MCL 54.273; Rule 54.201.(1)(e); Rule 54.207.(1).

Work Program

Unless an administrative allowance is granted, a minimum of **85 percent** of the grant shall be dedicated to contractual survey services, and a maximum of **15 percent** of the grant may be used for administration/indirect costs.

The County is responsible for overseeing their monumentation surveyors and reviewing the work they complete. The year's work program shall be reviewed by the county for compliance with the program's requirements prior to submitting documents and reports to the OLSR for filing.

1. Common Corners and County Lines: Subsection F of Section III, Plan Objectives, of the County Plan provides that counties shall "*Coordinate with adjoining counties for the monumentation of all county line corners.*"

Before a county's remonumentation program can be considered complete, there must be a consensus of the monumentation along county lines.

- a. Common corners shall be ratified and filed by all affected counties, and evidence of acceptance by all affected counties shall be provided with the report, i.e., LCRC and database records submitted by each county.

- b. Standard lines are required to be determined before closing corners can be perpetuated; however, it may be necessary to simultaneously restore the standard and closing corners due to the available evidence. If closing corners were done prior to the standard line's completion, then those closing corners shall be revisited and verified.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1970 PA 74; MCL 54.268.(2)(a); MCL 54.272; MCL 54.274; Section V, Plan Execution of the County Plan; Section VII, Perpetual Monument Maintenance Plan of the County Plan.

2. **Corner Restoration, Rehabilitation and Remonumentation:** Complete all work in accordance with program requirements as guided by federal and state law and the BLM Manual of Survey Instructions. The surveyor completing and certifying the work is liable for the work.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1970 PA 74; 1990 PA 345; 1980 PA 299; Rule 339.17403; Section II, Definition L of the County Plan; Section 3.3.B of the Grant Agreement.

3. **Impracticable to Occupy, Inaccessible Location, Liable to Destruction, Unsafe Condition, etc.:** Corner locations which present inaccessible locations or unsafe conditions may allow for rehabilitation/restoration by witness corners or reference monuments. Please contact the OLSR with specific concerns. Monumenting positions in airport runways, state highways, and railroad rights-of-way may be impractical and warrant the use of other monumentation methods.

a. **Reference Monuments:**

- i. Land Corner Recordation Act, 1970 PA 74, MCL 54.207 – *“If a corner record is required to be filed under this act, the surveyor shall monument the corner and each accessory to the corner, and leave the monument in such a physical condition that it remains as permanent a monument as is reasonably possible. If access to the corner location will create an unsafe condition, the surveyor may install at least 4 reference monuments interrelated and visible with the corner location and each other by angular and linear measurements.”*
- ii. BLM Manual of Survey Instructions – 4-17. *“A reference monument is an accessory and is employed in situations where the site of a corner is such that a permanent monument with a cap cannot be established or where the monument would be liable to destruction.”*

b. **Witness Corner:**

- i. BLM Manual of Survey Instructions – 4-16. *“A witness corner is a monumented point near a corner. It is established only in situations where it is impracticable to occupy the site of a corner with a monument or a mark. A witness corner is a witness to the true corner point. When the true point for a corner falls at an inaccessible place, such as upon a precipitous slope or cliff where the corner cannot be marked, a witness corner is established at some suitable point where the monument may be permanently constructed.”*

When special purpose monuments (Reference Monument, Witness Corner) are set, the following information should be contained on the LCRC:

- a. Rationale for placing the monument, e.g., reason corner is not accessible, impracticable or unsafe to occupy.
- b. Upon which line of survey the marker(s) is set, if applicable.
- c. Bearing and distance to water’s edge or other obstructions, if applicable.
- d. Bearing and distance to corner position being witnessed/referenced.
- e. Bearing and distance to adjoining PLSS.
- f. Measured/calculated distances should reference their relationship to the original survey distances and any discrepancy should be discussed.

Reference: 1970 PA 74; MCL 54.268.(2)(a).

4. **In-Place Markers:** The County Plan requires *“An existing, in-place, non-ferrous marker shall be replaced with a standard county marker.”* It is understood, however, that there may be instances when a corner marker is left in place as a “substantial/superior” monument but does not fully comply with the current minimum statutory requirements. In these instances, all effort should be taken to bring the corner markers into compliance with the current minimum statutory requirements. Meeting these requirements may not require the replacement of the marker but, rather, the addition of items to validate the existing marker and bring it into compliance, i.e., reference monuments, witness corners, caps, items with magnetic fields, etc.

Reference: MCL 54.210.

5. **Land Corner Recordation Certificate (LCRC):** The LCRC form was developed by the State Board of Professional Surveyors as required by the Land Corner Recordation Act, 1970 PA 74. An LCRC is required to be completed and filed for each corner completed for the program and include a full history, a report of all evidence recovered and used to verify/restore the original corner position, a description of the monument left in place, and not less than four accessories (witnesses).

If the surveyor does not follow the standards outlined in the Manual, the LCRC must reference the applicable portions of the Manual that were not followed, along with an explanation as to why the corner circumstances did not warrant following the Manual.

Reference: 1970 PA 74; MCL 54.268.(2)(a).; Rule 339.17403.

6. **Markers/Caps:** Each county shall adopt standardized markers and/or caps to be utilized when remonumentation is necessary within its boundaries and provide this information to the OLSR. Each marker/cap will be stamped or engraved to identify it and have a centering mark to define the precise location of the corner. The marker/cap will legibly show the license number of the monumentation surveyor responsible for its placement.

Reference: MCL 54.210.(1); Appendix C, Minimum Standards for Monumentation of the County Plan; Appendix E, Corner Monumentation of the County Plan.

7. **Minimum Monument per 1970 PA 74:** The minimum standard specifications for corner markers are outlined in Section 10 of 1970 PA 74 and require that a marker be not less than 18 inches in length, ½ inch in diameter, possess a magnetic field, and be capped/marked with the license number of the surveyor responsible for its placement.

By definition, remonument “...means to install a marker where (1) the existing marker does not meet minimum standards as specified...” Additionally, Information Memorandum No. 9 includes advice rendered by the Office of the Attorney General addressing the minimum standards for monumentation within the confines of the Remonumentation Program.

Reference: MCL 54.210.

8. **Monument Boxes:** 1970 PA 74 MCL 54.210 states, “If a corner is located in a public roadway and the roadway is hard-surfaced at the corner...a monument...shall be visible **or** contained within a visible protected enclosure and shall comply with any requirements of the agency having jurisdiction over the roadway.”

Monument boxes are not a mandatory program requirement; however, if protective enclosures are desired, a county may elect to adopt an enclosure as part of the standard marker. Standard markers and caps need to be filed with OLSR from each county.

Reference: MCL 54.210.(4).

9. **Monument Preservation:** 1970 PA 74, MCL 54.210d states, “A person who defaces, destroys, alters, or removes a corner monument or reference monument...shall be responsible for the costs of reestablishment and replacement of the monument and filing of the corner record by the surveyor...A corner monument or reference monument may be temporarily removed for construction purposes if the corner is properly witnessed by a surveyor before removal. The monument shall be reset, rewitnessed, and refiled by a surveyor within 30 days after the completion of construction. A corner monument or reference monument shall not be temporarily removed for more than 1 year. A person who knows that a corner monument or reference monument has been defaced, destroyed, altered, or removed shall report that fact to the county surveyor of the county in which the corner is located.”

Where corner markers are destroyed or subject to destruction, the person/entity placing the corner in harms way is responsible for the cost to restore and perpetuate the corner. All costs associated with the perpetuation of the corner in compliance with 1970 PA 74 are the responsibility of the person/entity placing the corner in harms way.

Reference: MCL 54.210d.

10. **Non-Program Corners:** Corner records submitted to the OLSR that were not established and monumented by the United States public land surveys are not eligible for reimbursement from the Remonumentation Program. We will accept new corner records for previously filed records which have compliance issues at no charge to the program.

The surveyor of record is responsible for the cost of correcting a filed LCRC where a corner position was erroneously established.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1980 PA 299; MCL 54.202.(c); August 26, 2009 OAG program advice; Section 3.3.B. of the Grant Agreement.

11. **Peer Group:** See the County Plan, Appendix B for additional information and detail regarding proper procedures for the ratification of corner positions.

Meeting expenditures incurred for peer group meetings held that do not comply with program standards will not be reimbursed.

- a. The sole responsibility of the Peer Group is to review all corner position documentation (survey dossier and proposed LCRC) presented for ratification and confirm the proper position for the PLSS corner.
- b. Meetings shall be held in conformance with the Open Meetings Act, 267 of 1976, MCL 15.261-275.

- c. The chairperson of the Peer Group shall be the County Representative/Surveyor, and the Peer Group can only convene when the chairperson is present. When deemed necessary, the County Board of Commissioners may appoint a professional surveyor licensed in accordance with 1980 PA 299 to perform the duties of the County Representative/Surveyor.
- d. The Peer Group shall be made up of a minimum of three non-associated professional surveyors appointed by the County Representative.
- e. A monumentation surveyor cannot vote on his/her own corner(s) for ratification as a member of a Peer Group or other corners presented by his/her firm or family member.
- f. A monumentation surveyor may receive peer group compensation if he/she is voting on another surveyor's corner for determination of the original corner position. A monumentation surveyor who does not perform the role of a peer group member may not receive compensation for peer group activities.
- g. Peer Group meetings and members should be held to a minimum to maximize corner monumentation activities.

Reference: 1976 PA 267; Section II, Definition O of the County Plan; Section V, Plan Execution of the County Plan; Appendix B, Procedure for Ratification of a Corner Position of the County Plan.

12. Property Controlling Corners/Conflicting Corner Positions: Shall be identified on the same LCRC as the original PLSS corner. These corner positions may determine property rights over a remonumented original corner position.

Any surveyor who has set a corner different from the position being considered for ratification must be notified by the County Representative/Surveyor at least ten days prior to the peer group meeting, e.g., if there is a conflicting corner position, historic marker, or multiple positions for a corner. Documentation for the notification or peer group participation by the surveyor with a conflicting corner position shall be provided with the completion report. A note in the peer group meeting minutes, notes in the LCRC Section B report, public meeting notice, letter, email, or fax to the surveyor, etc. are examples of how this information can be provided.

It is advantageous but not required that the peer group consider testimony from any surveyor who has used a corner position different from the position being considered for ratification.

Reference: MCL 54.202.(b); Appendix B, Procedure for Ratification of a Corner Position of the County Plan.

13. Property Rights and Title Issues: The potential for property line discrepancies was brought to the attention of the Legislature prior to Act 345 being passed, and the Senate Fiscal Agency presented the following opposing argument, “*Property line disputes could result from changes in the location of monuments.*” Addressing these concerns, however, is not provided for in the Act.

Chapter 3-135 of the 2009 BLM Manual of Survey Instructions identifies the jurisdiction of these legal matters as being the duty of the local courts and interested property owners. In instances where discrepancies may arise, the remonumentation surveyor’s sole responsibility is to report all facts and historical evidence pertaining to the discrepancies.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1970 PA 74; MCL 54.268.(2)(a); Michigan Case Law.

14. Public Land Survey System (PLSS) Corner: A PLSS corner is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.

Reference: MCL 54.202.(c).

15. Reconnaissance: All record data and evidence related to established monuments, accessories, and calls to natural features shall be reviewed, located in the field, and used to evaluate and determine a corner’s position.

In most instances it is advantageous to run a traverse line and locate all field evidence along the section lines between corners.

The field search should be made at a time of year when conditions are most suitable for accessing and locating the corner and uncovering evidence. An excavation report describing the extent and the location of the corner excavation shall be provided on the corner’s LCRC or filed with the corner dossier.

Reference: Appendix E.II., Reconnaissance (Field) of the County Plan.

16. Research: The following sources shall be thoroughly examined if available:

- a. Original United States public land survey records, including notes, plats, special instructions, patents, etc.
- b. County Records, including public survey records (LCRC’s, PA 132 land surveys, subdivision plats, condominium subdivisions, etc.), county surveyor notes/plats/etc., road and drain commission surveys/notes, witness cards, maps, etc.
- c. Private practitioners surveys, notes, witness cards, maps, etc.

- d. Utility companies surveys, notes, witness cards, maps, etc.
- e. Parole evidence (property owner and resident interviews).
- f. Other sources providing evidence of the original corner position.

Reference: Appendix E.I., Research Sources and Analysis of the County Plan.

17. Setting of Marker: A corner marker shall be placed to identify each original PLSS corner. The marker shall be placed in such a position as to occupy the true corner location, and, when necessary, reference monuments shall also be placed. In instances where it is impracticable to occupy the site of a corner, witness corners shall be placed and identified accordingly.

Reference: 1970 PA 74; MCL 54.268.(2)(a).

18. Standard and Closing Lines - Order of Work: (County, Claim, Reservation, Township, etc.)

- a. It is not appropriate to restore a closing corner position prior to retracing the senior line, i.e., claim line, reservation line, standard line, township line, etc., closed upon and restoring the standard corner positions on either side of the closing corner. Generally, senior lines predate divisional lines and run corner to corner, with no deflections occurring at the closing corners. The later run divisional lines will terminate at the intersection of the senior lines.
- b. Proper retracement methods will aid in identifying true points of intersection and may require amended or conflicting corners be identified. Please refer to the BLM Manual of Surveying Instructions for additional guidance on the restoration of corners, specifically Closing Corners 7-41 thru 7-49 and Junior-Senior Corners 7-23 thru 7-31.

Reference: 1970 PA 74; MCL 54.268.(2)(a).

19. Superseding Previous Corner Records:

- a. The new LCRC should specifically state that it is superseding previously recorded document(s) and provide the recording information for the earlier document(s).
- b. The new LCRC should be completed in full and include all pertinent information required under Parts "A" "B" and "C."
- c. Caution should be used when referencing a non-program corner. Non-program corners are positions which were never established and monumented in a United States survey or resurvey, but may have been historically reported or calculated. It is acceptable to reference positions of importance or historical value as long as these positions are not incorrectly labeled as PLSS corners.

- d. If new evidence is uncovered and the position of the corner is adjusted or the designation changed, then the new corner position shall be presented to the peer group for review and ratification and stamped with the most recent approval date.
- e. If the corner position or designation does not change, then the LCRC does not need to be presented to the peer group; however it does need to be stamped and dated with the original peer approval date.

Reference: 1970 PA 74; Appendix B, Procedure for Ratification of a Corner Position of the County Plan.

20. Walk-In Corners: When a surveyor presents a corner to the Peer Group that is not part of the annual grant agreement, that corner may be ratified by the Peer Group and included in the program.

Reference: Appendix A, Items Eligible for Grant Funds of the County Plan; Appendix B, Procedure for Ratification of a Corner Position of the County Plan.

21. Water Corners:

- a. It is not appropriate to remonument positions that fell in naturally occurring bodies of water at the time of the original surveys or currently fall in naturally occurring bodies of water. Whether the original surveyor noted a corner/post being set or not, these positions shall not be perpetuated as part of the remonumentation program. To do so would be in direct conflict with Michigan Riparian and Littoral Case Law and may introduce the surveyor to unnecessary liability.
- b. If the public land survey established and monumented corners at the margin of a naturally occurring body of water, those positions shall be perpetuated and included in the County's remonumentation program.
- c. It is not appropriate to monument lines or set witness posts beyond the meandered positions surveyed by the original public land surveys. If the original position surveyed is no longer accessible, a witness to the original corner shall be set. A witness post for an original meander corner shall be set landward in relation to the of the corner's original position.

Reference: MCL 54.268(a); MCL 54.202.(c); Michigan Case Law; August 26, 2009 OAG program advice.

Work Progress / Completion Report

The following information must be submitted with a work progress or completion report.

1. **Account 245 Print-out or Equivalent Ledger of the Grant Account:** Provides a detailed history of all transactions posted to the Survey and Remonumentation account, **certified by the County Treasurer/Finance Controller** as required by the State of Michigan, Department of Treasury Letter No. 01-91 dated March 7, 1991, "State Survey and Remonumentation Fees." **NOTE:** The County Grant Administrator is responsible for identifying the expenditures, deposits, etc., on the 245 Report or may attach a separate narrative if the report does not clearly correlate to the budget line items and work program categories on the work progress or completion reports.

Reference: Rule 54.209; Rule 54.210; Section 2.7 of the Grant Agreement.

2. **Completion Narrative:** Shall accompany a Work Progress or Completion Report along with a copy of the OLSR approval of all requests for program modification made throughout the grant year.

Reference: Sections 1.1 and 1.4 of the Grant Agreement.

3. **Itemized Invoices:** Includes all work performed by monumentation surveyors, peer group members, service contractors, supplies purchased, and all county costs charged to the program.

Invoices shall list each service provided by work program category (Research/Monumentation, Setting of Coordinates, or Control Stations Recovered), and identify each corner researched/monumented and/or state plane coordinate value established, by town/range.

Reference: MCL 54.270; MCL 54.272.(1)(e); MCL 54.273; Rule 54.201.(e); Rule 54.207.(1); Rule 54.208; Rule 54.209; Rule 54.210; Appendix A, Items Eligible for Grant Funds of the County Plan; Sections 1.3, 1.4 and 2.7 of the Grant Agreement.

4. **Itemized Payroll Print-Out:** The county shall provide an itemized payroll print-out, **certified by the County Treasurer/Finance Controller**, for all expenditures incurred by county employees for related administrative costs (see NOTE in 1. above)

Reference: Rule 54.209; Rule 54.210; Section 2.7 of the Grant Agreement.

5. LCRC's and Database Records:

- a. Database records entered and submitted for each corner completed
- b. Full-size LCRC copies

Reference: MCL 54.266.(1)(b); MCL 54.268.(2)(c).

County Plan Completion and Maintenance Program

The State Survey and Remonumentation Act, 1990 PA 345, MCL 54.274(2) provides: “*The commission shall not make a grant pursuant to section 12(1)(d) unless the applicant demonstrates to the commission that it has completed the monumentation or remonumentation of the county...*”

The county will need to substantiate that all original public land survey corners, including all corners associated with islands, claims, reservations, waterways, etc. that have been perpetuated by the county's program and subsequently filed with the OLSR prior to commencement of a perpetual monument maintenance program.

Reference: Act of February 11, 1805 (2 Stat. 313; 43 U.S.C. 752); 1970 PA 74; MCL 54.268.(2)(a); MCL 54.272; MCL 54.274; Section V, Plan Execution of the County Plan; Section VII, Perpetual Monument Maintenance Plan of the County Plan.

We are working to develop the forms and additional information necessary for this phase of the counties' monumentation programs and will provide additional information as it becomes available.

As noted previously, questions may be directed to the Office of Land Survey and Remonumentation at 517-241-6321 or by e-mail at bccinfo@michigan.gov.