

CHAPTER 14

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14.00.00.00 - RIGHT OF WAY CERTIFICATION

14.01.00.00 - INTRODUCTION

14.01.01.00 General

This chapter defines and describes the nature, uses, and procedures of R/W Certifications essential for project delivery. For purposes of this chapter, the term project certification refers specifically to the R/W Certification.

14.01.01.01 Definition

R/W Certification is a written statement summarizing the status of all right of way related matters pertaining to a proposed construction project. The purpose of the R/W Certification is to document the construction project is ready for advertising and states:

- Real property interests have been, or are being, secured.
- Physical obstructions including utilities and railroads have been or will be removed, relocated, or protected as required for construction, operation, and maintenance of the proposed project.
- Right of way acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.

There are three levels of Certifications recognized by the Federal Highway Administration (FHWA) pursuant to 23 CFR 625.309 and four utilized by the State. The FHWA recognizes Certification levels 1, 2, and a 3 which is equivalent to the State's "3 with Work-Around." Under the Federal rule, projects may be advertised, bid proposals opened, and a construction contract awarded using these Certification levels. Additionally, the State uses a Right of Way Certification No. 3. A Certification No. 3 allows for the project to be advertised only, construction bids MAY NOT be opened until the Certification is upgraded to a Certification 1 or 2. Criteria for using these Certifications can be found in Chapter 14.02.00.00.

14.01.02.00 Projects Requiring R/W Certification

The DDC-R/W must certify the following types of projects.

- Any project for which Plans, Specifications, and Estimates (PS&E) are submitted to the district/region or Headquarters Office of Office Engineer, referred to as Office Engineer or DOE/HQOE,) for contract advertisement and award.
- Any project that includes federal funding in all or a portion of the cost of right of way OR construction.
- Any project that is authorized for district/region contract advertisement and award.
- Any project to be undertaken by day labor, casual labor, or force account.

14.01.03.00 Projects Exempt From R/W Certification

Projects conducted solely for the purpose of emergency reopening of transportation facilities under authority of Government Code Sections 14120-23 are exempt from formal R/W Certification processes if no PS&Es are prepared.

14.01.04.00 **Responsibility for R/W Certification**

The DDC-R/W is responsible for Certification of the status of right of way to the Project Manager for project advertisement or contract award.

District/Region R/W confirms or rescinds Certification to the Project Manager, and district/region or Headquarters Office Engineer.

All matters affecting the validity of a previously issued R/W Certification shall be brought to the attention of the Project Manager to determine the need to update or rescind the original Certification.

14.01.04.01 **Input to PMCS and ROWMIS**

On the date the district/region R/W certifies the project, the district/region shall enter the R/W Certification number and date into PMCS and ROWMIS (PMCS EVNT ADV Screen and ROWMIS Data Sheet Tab).

14.01.04.02 **Certification Rescinded by District/Region**

When a district/region rescinds a R/W Certification, for reasons such as design changes prior to advertising or discovery of facts that otherwise make the certification invalid, it shall remove the Certification date from PMCS. The District/Region Project Manager, district/region or Headquarters Office Engineer, and FHWA, when necessary, shall be notified in writing that the R/W Certification has been rescinded.

14.01.04.03 **Project Canceled by Office Engineer**

When the district/region or Headquarters Office Engineer cancels a project, it will notify the DDC-R/W in writing. District/Region R/W shall rescind the R/W Certification, remove the Certification date from PMCS, and enter a new Certification target date (Month-Year) if necessary.

14.01.05.00 **Age of Certification**

For projects not yet listed for advertising, district/region R/W shall update any Certification over one year old, and when requested by the Project Manager or district/region or Headquarters Office Engineer. (See Section 14.01.08.00 also.)

14.01.06.00 **Unusual Project Circumstances**

“Unusual circumstances” are any deviations from the requirements or standard practices outlined in this chapter. When there are unusual circumstances in a project, the district/region shall forward a full explanation of the circumstances to HQ R/W for approval prior to certification and at least one month prior to the project advertising date. The approval should be included in the Certification or in an attachment and made a part of the Certification.

14.01.07.00 **Modifications to R/W Certifications**

District/Region R/W shall not take action on verbal requests to alter significant factual data in a Certification until the Project Manager or the Office Engineer confirms the request in writing. The request must be attached to and made a part of the original Certification. Revised Certifications must have the word “Revised” clearly stamped and centered at the top of the front page.

14.01.08.00 **Project Design Changes**

A R/W Certification must be updated when the project design changes in any project phase, even if the right of way requirements have not changed. In cases of design changes that affect right of way, the Project Manager should allow at least six months prior to the new scheduled project advertising date to assure timely clearance of the new Certification.

14.01.08.01 **Split and Combined Projects**

Occasionally a large project that has been certified under a single EA is split into several smaller projects, which are then advertised under separate EAs. In these cases a separate (and new) R/W Certification is required for each project EA. Two or more separately advertised projects shall not be combined in a single Certification. Each advertised project must have a separate Certification matching the specific project PS&E.

Conversely, when two projects are combined into one project for advertising and construction, a new R/W Certification must be prepared for the combined project being advertised. (See Section 14.03.02.00.)

14.01.09.00 **Local Public Agency (LPA) Work for State Project**

A construction project on a state highway may include work on LPA streets or roads where the LPA acquires some or all of the required right of way. This includes tax measure and privately funded projects (see Section 14.01.09.02). Those parcels the LPA acquires for the construction project on a state highway, or as part of the state's contract, must be included in the district/region's Certification. Any other applicable work done by an LPA must also be included, such as clearance, utility relocation, and relocation assistance. Complete documentation of the LPA acquisitions and Certification shall be retained in the district/region certification file.

14.01.09.01 **Certification for Local Streets and Roads Projects**

Refer to Local Assistance Procedures Manual Chapter 13 for Certification procedures for Local Streets and Roads projects with federal funding.

14.01.09.02 **Certification of Specially Funded Projects on State Highway System**

Government Code Section 14529.13 requires Caltrans to accept the completed project (tax measure, locally or privately funded) into the state highway system if the project was Caltrans approved and the right of way was acquired and the project was constructed in accordance with Caltrans' practices. (See R/W Manual Chapter 17 for details for Certification of this project type.)

14.01.10.00 **Certifications and Hazardous Waste**

Currently there is no requirement for R/W to certify the status of hazardous waste on a project. Typically Project Development's Attachment A in the PS&E package addresses and attests to the existence and mitigation of hazardous waste.

14.01.11.00 R/W Certification for Design-Build Projects

Design-Build (D-B) is becoming a widely accepted alternative project delivery method for public works projects across the nation. D-B contracting is a method of project delivery where the design and construction phases of a project are combined into one contract. The D-B method allows the contracting agency to advertise the project for construction with conceptual plans, typically at 30% design, and having the design-builder complete the design. The risk and responsibility for design details are shifted from the Department to the design-builder. The D-B contract is awarded on either a low-bid or best-value basis. Significant time savings can be achieved through the D-B process compared to the typical Design-Bid-Build method in which the design and construction must be performed sequentially.

The D-B method accelerates project delivery by allowing the design and construction teams to work together early on, enabling the sharing of expertise, minimizing risk of design errors, and improving the constructability of the design. The D-B delivery method has resulted in many State DOTs reducing risks and shortening project delivery by at least one to two years.

Initially, California's Design-Build Demonstration Program (codified in Section 6800 of the Public Contracting Code) authorized the Department to enter into D-B contracts for certain state or local transportation projects. This authorization sunset in January 2014. However, Assembly Bill 401 authorizes 10 additional D-B projects on the State Highway System. Provisions of this bill will expire on January 1, 2024. Projects selected for the D-B delivery method can be found on the Department's Web site at <http://www.dot.ca.gov/hq/oppd/designbuild/authorized.htm>

Close scrutiny of a D-B project is necessary due to the phased delivery of many of the R/W deliverables. R/W Certification provides assurance that the acquisition of right of way and the relocation of displaced persons and/or businesses has been completed in compliance with state and federal regulations, including the Uniform Act. Certification of D-B projects will follow the policies and procedures outlined in the D-B sections below and will comply with all other provisions in Chapter 14 when applicable.

14.01.11.01 Design-Build Right of Way Statement

The traditional Design-Bid-Build delivery method requires a R/W Certification prior to advertising the project for bid. The R/W Certification is an important component of the PS&E package. The PS&E package is the instrument for advancing the Design-Bid-Build project to advertisement. However, with a D-B project, the submittal of a R/W Certification is typically not feasible prior to the release for the Request for Proposals (RFP). In order to proceed with advertisement on a D-B project, a provision in the Code of Federal Regulations allows for advertisement without the requirement of a R/W Certification. Per 23 CFR 635.309(p)(1)(v), a statement must be received by Headquarters Division of Right of Way and Land Surveys which states all right-of-way work has been completed, or that all necessary arrangements will be made for the completion of right of way, utilities, and railroad work.

The Right of Way Statement will be prepared by the District and will provide the status of the project right of way at the time of advertisement. The Statement will include the following:

1. Project description and location;
2. Status of the Environmental Document;
3. Statement certifying that all right of way work has been or will be completed in accordance with all state and federal laws (including the Uniform Act) and in accordance with Caltrans policies and procedures.
4. Status of all right of way activities including acquisition of property rights, railroad facilities, utility relocations, compliance with the Relocation Assistance Program, Cooperative Agreements, environmental mitigation, Buy America, etc.;
5. Statement indicating the right of way plan and technical provisions have been included in the RFP.

The statement will be forwarded to Headquarters Division of Right of Way and Land Surveys for approval and, if required, forwarded to FHWA for review and approval. An example of the Right of Way Statement is provided as Exhibit 14-EX-14.

14.01.11.02 **R/W Certification Flexibilities for Design-Build Projects**

Right of Way acquisition and utility relocations are often perceived as the greatest risk component in a project's schedule. Construction of the project is dependent upon the availability of right of way. In order to expedite the right of way process for D-B projects, a project can be segmented. Unlike Design-Bid-Build projects where right of way clearance is required along the entire corridor prior to certification, D-B projects can certify segments as the right of way is acquired. In accordance with 23 CFR Section 710.313, a D-B project may be authorized for construction in phases or segments as right of way for an individual property or a group of properties becomes available. Per Department policy, construction cannot begin on a segment until all of the right of way for that segment is acquired. If any right of way activities are incorporated into the D-B Contract, the design-builder is expected to fully comply with all of the specific requirements related to right of way acquisition and certification as stated in the FHWA regulations 23 CFR Section 710.313.

Flexibility in delivering the right of way is one of the greatest advantages of a D-B project. Parcels that are considered critical to construction, regardless of their location on the proposed route can be targeted. A non-linear progression of right of way acquisition allows for the potential for construction to commence while design continues on other segments of the project. As a result, sections of a project may be in different stages of the right of way process. Appraisals, acquisitions, RAP, utility relocations, railroad coordination, demolition & clearance, and planning & management/coordination can occur simultaneously. Therefore, it is necessary to develop a strong right of way team and an efficient process in order to successfully handle multiple aspects of right of way delivery. Involving the right of way team early in the design stage of a D-B project is critical to developing a successful D-B program. It is the responsibility of District R/W to advise the D-B Team to develop, to the extent possible, parcel delivery packages that are contiguous and/or grouped within close proximity, as this increases the chances of advancing a project to construction in an efficient and timely manner.

14.01.11.03 **R/W Certification Process for Design-Build Projects**

Processing certifications for D-B projects is very similar to certifying Design-Bid-Build projects. Criteria for certifying D-B projects remains the same. The distinction between certifying D-B projects vs. Design-Bid-Build is the submittal of multiple certifications due to segmented delivery of right of way.

Planned right of way limits will be identified in the Right of Way Acquisition Maps which are provided in the RFP. Scheduled delivery of right of way to the D-B Contractor is outlined in the Technical Provisions included in the RFP. Typically, parcels are segmented, or grouped, into delivery packages. As a result, several certifications will be processed throughout the D-B project. When a certification is submitted for approval, it should be cross-referenced with the parcel groups identified in the Technical Provisions. This is to ensure that the certification includes all the right of way parcels scheduled to be delivered to the D-B contractor. Any delays in providing access to scheduled right of way parcels may result in substantial costs due to potential D-B Contractor delay claims.

Certifications for D-B projects will meet the standard requirements for Certification No. 1 and Certification No. 2 levels. Due to right of way flexibilities afforded with D-B projects, the use of a Certification No. 3, or a Special Certification No. 3 with Work-Around is negated. If it is determined a Special Certification No. 3 with Work-Around is needed, HQ will review and may approve on a case by case basis. Parcels that are not acquired in a segment can be "carved out" and certified at a later date. Per 23 CFR 710.313(b), the decision to advance a right of way segment to construction shall not impair the safety, or be coercive in the context of 49 CFR 24.102(h) with respect to unacquired or occupied properties within the same segment or adjacent segments. Additional care must be taken to ensure that owners of unacquired parcels are not unduly inconvenienced or harmed as a result of the design-builder's construction activities.

14.01.11.04 R/W Certification Document Format for Design-Build Projects

The R/W Certification format for D-B projects is very similar to the standard format used for Design-Bid-Build projects. The only difference is the initial and subsequent certifications for a D-B project will provide a means for tracking the progress of the right of way deliverables. D-B certifications will include the total number of parcels required for the project, the total number of parcels acquired to date, and the remaining number of parcels to be acquired.

R/W Certification for all D-B projects will use the certification format shown in Exhibit 14-EX-13. Since the format contains specific wording required by FHWA, specifically the Certification statement, changes made in wording could invalidate the certification. Any deviation from the format or the wording must be fully explained in the certification and approved by HQ RW.

14.01.12.00 R/W Certification File

The district/regions shall maintain both a hard-copy and electronic (e.g., ROWMIS) R/W Certification files containing pertinent documents related to the certification of a project, such as but not limited to:

- A diary for recording relevant information about the project.
- The project schedule, project design changes, and correspondence to and from Project Development and the Project Manager.
- Any necessary HQ RW and FHWA approvals of unusual project circumstances.
- All clearance documents from various R/W functional areas.
- The original Certification.

The R/W Certification file shall be transferred to the project file system immediately after the project is certified and the contract has been awarded.

14.01.12.01 Project File System

District/Region P&M shall maintain both a hard-copy and electronic (e.g., ROWMIS) project file system that contains at a minimum the following documents:

- R/W Data sheet.
- R/W Certification file containing the original R/W Certification.
- Title VI Survey Forms (hard-copy only).
- Other project-related correspondence.

14.01.12.02 Functional Clearances and Record Retention

R/W functional clearances must be documented in the district/region R/W Certification files. The minimum requirement to certify a project is to obtain clearance memorandums from the utilities and railroads functions. Such clearances, together with the original R/W Certification and any pertinent correspondence, will be retained in accordance with the Department's Standardized Records Disposition Schedule for R/W project general files.

14.02.00.00 - CRITERIA FOR CERTIFICATION

14.02.01.00 Prerequisites

Prior to issuing a R/W Certification, district R/W should review the draft district PS&E and PS&E submittal report to confirm pertinent data. R/W Engineering staff normally perform this review, which includes such items as:

- Project identification (Co.-Rte.-KP-EA).
- Federal Aid Project Number.
- Location description.
- Work description.
- Special provisions relating to utility, railroad, and right of way clearance coordination.
- Confirmation that right of way construction contract obligations are properly included in the PS&E.
- Confirmation that the right of way as shown on the construction plans is consistent with district R/W records.

14.02.02.00 Timing of R/W Certification

14.02.02.01 Office Engineer

R/W Certifications should be included with the PS&E packages at the time of submittal or sent as soon as possible after receipt of the project PS&Es by Headquarters Office Engineer. In either case, the district Office Engineer should coordinate submittal of R/W Certifications to Headquarters. R/W Certifications sent to Headquarters Office Engineer after submittal of the PS&E package should be sent to the attention of the Scheduling Engineer.

A copy of the signed original district R/W Certification should be sent to the district Office Engineer no later than two months prior to the proposed advertising date. If Certification has not been received by the fifth week prior to the proposed advertising date, the project will not be listed for advertisement as scheduled unless prior arrangements have been made through the district or Headquarters Office Engineer to list the project as "Right of Way Due." Listing of projects for advertisement as R/W

Certification "due" will be used only in exceptional cases. When used, the district shall provide written assurance that the R/W Certification will be received by the Office Engineer on a date certain but not less than 15 working days prior to the scheduled advertising date.

In those exceptional cases where a project is advertised on a Certification No. 3, the Certification No. 1 or 2 must be received a minimum of 15 working days prior to the **bid opening** date. In those rare cases where a Special Certification No. 3 with Work-Around is used, an updated Special Certification No. 3 with Work-Around (dated and signed) shall be submitted to the O.E. no later than 15 working days prior to **bid opening**.

Any Certification containing events with completion or effective dates that occur after the Certification date but before the award date of the project construction contract shall be updated. These events include the effective date of any Rights of Entry, Orders for Possession, utility relocation completions, RAP vacations, etc. The updated Certification shall be distributed to the same individuals and offices as the original Certification.

14.02.02.02 FHWA

Where federal funding will be used in any portion of a project, the FHWA, Federal Transportation Engineer (T.E.) must have a Certification No. 1, 2, or a Right of Way Certification with a Work Around, (UPDATED* Special Certification No. 3 with Work-Around) in its possession a minimum of 15 working days prior to the FHWA "Authorization to Proceed" (concurrence and award) date. This authorization is given by the T.E. prior to the award of the construction contract. The HQ Budgets Program, Federal Aid Resources, is responsible to forward all required Certifications to FHWA.

***Special Certifications #3 with a work around condition will require conceptual approvals through HQ R/W Program prior to use. See Section 14.02.07.00.**

14.02.03.00 **Criteria for R/W Certification**

Right of Way Certification formats can be found in Exhibits 14-EX-3 through 14-EX-10, and 14-EX-13.

14.02.03.01 **R/W Certification No. 1**

To certify the project under a Certification No. 1 (See Exhibit 14-EX3), the DDC-R/W must assure that the state has full legal and physical possession of all necessary rights of way , including control of access rights when pertinent and the right to remove, salvage, or demolish any improvements remaining on the right of way because:

- All work is within existing right of way acquired for a previous construction project, and all new work will be within that existing right of way; OR

Acquisitions are complete (escrows closed and/or Final Orders of Condemnation recorded); AND/OR

- There are effective Orders for Possession on **all** remaining unacquired parcels. AND All occupants have vacated the lands and improvements. AND
- Relocation assistance and payment requirements have been met. AND
- All necessary material and disposal sites have been secured. AND
- All R/W clearance, utility, and railroad work has been completed, or all necessary arrangements have been made (e.g., Utility Notices issued, demolition contracts awarded, and railroad contracts executed) for the work to be undertaken and completed as required for proper coordination with the physical construction schedules.

14.02.05.0 **R/W Certification No. 2**

Requirements for R/W Certification No. 2 (Exhibit 14-EX-3) are the same as for Certification No. 1 except the States' right to occupy and use one or more parcels are by virtue of effective Rights of Entry, or an Agreement for Possession and Use. Similar documents, such as a permit, license, or an approved R/W Contract with effective right of

possession date also require the use of a certification No. 2

14.02.05.00 **R/W Certification No. 3**

Certification No. 3 (Exhibit 14-EX-3 and 14-EX-7) may be used on a limited basis when believed to be in the public interest, and the CTC approves a Resolution of Necessity on all those parcels yet to be acquired. This exception must never become the rule.

Every R/W Certification No. 3 must be accompanied by memorandum from the district containing the information below, and a copy of this memorandum must be included in or attached to the Certification (also see Section 14.01.06.00).

- **Full justification** for using a Certification No. 3, including an outline of the very unusual circumstances that require early advertisement.
- **Full written explanation** of why the Certification is a No. 3 (rather than a No. 1 or No. 2) along with a realistic date when physical occupancy and use is anticipated and substantiation that such a date can be met.

The DDC-R/W shall consider very carefully whether a Certification No. 3 is really necessary for a specific project. Additional background to justify the Certification No. 3 may be requested from the Project Manager or whoever in the district is requesting R/W to certify the project. Justification might include reasons such as:

- Weather considerations.
- Construction windows.
- Source of funds (other than federal aid) to be lost.
- Construction dollar savings by earlier advertisement.

Requirements are the same as for Certification No. 1 except that legal possession or right of occupancy and use of a few remaining parcels is not complete. When Certification No. 3 is used, the Certification itself must contain the following additional information, as applicable:

- A statement that all remaining residential occupants have had replacement housing made available to them in accordance with R/W Manual Chapter 10, Relocation Assistance.
- A statement assuring that occupants of residences, businesses, farms, or nonprofit organizations who have not yet moved from the right of way are protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

NOTE: A statement as to these assurances and the date when the contractor may enter the affected property must also appear in the bid documents.

- Identification of each parcel on which legal possession, and/or right of occupancy and use, has not been obtained. Appropriate notification shall be provided in the bid documents identifying all locations where state's right of occupancy and use has not yet been obtained.
- Anticipated actual dates when legal possession and physical occupancy and use will be obtained with substantiation that such dates are realistic. A copy of the executed Order for Possession or Right of Entry may be attached to satisfy this requirement.

14.02.05.01 Standard Usage

The CTC Resolution of Necessity is the minimum requirement for a Certification No. 3. Although this is the minimum requirement, using Resolutions of Necessity to certify a project should occur only in exceptional circumstances, such as safety, emergency, or other similar work.

Exceptional use of a Certification No. 3 occurs when:

- Orders for Possession have been served but are not yet effective, and/or
- Rights of Entry, or Agreements for Possession and Use, have been executed but are not yet effective.

Thus, the date required in Section 14.02.06.01 above can be met without question only after an Order for Possession has been received, filed, and served or a Right of Entry has been signed.

Another use for a Certification No. 3 occurs when all parcels are acquired or have an effective Order for Possession or Right of Entry and all occupants have vacated but personal property remains on one or more parcels. In this case, the state has legal, but not physical, possession of the required right of way. The RAP section of the Certification No. 3 must provide an explanation of what personal property remains in the right of way, why it still remains, and how and when it will be removed.

Except for Special Certification No. 3W described IN Section 14.02.07.00 a project may be advertised, but bid proposals will not be opened until the Certification No. 3 has been raised to a No. 1 or 2. The anticipated date of legal and physical possession (see Section 14.02.06.01 above) is crucial because it is needed to set appropriate advertising, bid opening, and contract award dates.

In those exceptional cases where a project is advertised on a Certification No. 3, the Certification No. 1 or 2 must be received by the O.E. a minimum of 15 working days prior to the **bid opening** date.

14.02.06.00 Special Certification No. 3 With Work-Around

This special R/W Certification No. 3 (Exhibit 14-EX-9) may be used only in the most extraordinary circumstances. The district must show there is a critical need to advertise and award the project and describe in detail the extraordinary circumstances. If federal funds are involved in any portion of the project, including construction, conceptual approval of the work around must be obtained, by HQ RW from FHWA in advance of certifying the project for advertising..

This Certification will allow physical construction of a project to commence while occupants of residences, businesses, farms, or nonprofit organizations remain within the right of way. All occupants of residences must have had replacement housing made available to them in accordance with R/W Manual Chapter 10, Relocation Assistance.

When a district initially proposes to use this type of Certification, it must send a request memorandum to HQ R/W Project Delivery Office at least two full months prior to the required Certification date. The memorandum must explain the district's concept of how necessary arrangements can be made and the reasons why this type of Certification is needed. HQ

R/W will obtain FHWA's written approval as necessary.

A draft Certification (dated, but not signed) must be attached to the district's request memorandum. Approval to use this type of Certification No. 3 shall not be made unless the district can show substantial guarantees that vacation, possession, and clearance dates are completely realistic and enforceable.

When the approval memo is received from FHWA, the district will issue a signed Certification. Copies of the signed Special Certification No. 3 shall be sent to the Office Engineer in accordance with Section 14.02.02.01. A copy of FHWA's advance approval memorandum will be attached to and become part of the Certification. A copy of the Certification and FHWA's memorandum will be sent to HQ R/W, Project Delivery Office (see Exhibit 14-EX-12).

Although this Certification need **not** be raised to a Certification No. 1 or No. 2, an "Updated" Special Certification No. 3 with Work-Arounds (dated and signed) must be sent to the O.E. no later than 15 working days prior to bid opening.

14.02.06.01 R/W Clearance

Clearance work to be performed is listed on the R/W Certification as usual, except that occupied structures must be noted. Work-around times and how coordination with the contractor can be achieved must be explained in the Certification giving reasons therefor and approximate dates for clearance work and how it will be accomplished. (Also see Section 14.03.09.00.)

If **occupied, non-salvable** improvements are to be left in the right of way until they are vacated, it is preferable to include demolition in the highway construction contract. The resident engineer must be notified when the improvements have been vacated. Separate demolition contracts running concurrently with the highway contract **cannot** be used.

Appropriate notification shall be provided in the contract special provisions when clearance cannot be completed on **salvable** improvements prior to start of construction on the project. (Usually because it is not feasible or practical due to economy, remaining occupants, or special operational problems.) The R/W clearance work that others are to accomplish concurrently with the construction project must be clearly identified..

The State may sell salvable improvements in advance of vacation by the occupants. For example, the buyer of the improvements may be asked to agree to start removal of improvements with 10 days notice and to complete removal within a certain number of days. Adequate time must be included in the work-around provisions to allow for both vacation by occupants and removal of improvements.

If the construction contractor is to demolish or remove any **salvable** improvements, the district R/W Clearance section must follow all procedures in R/W Manual Chapter 12 regarding appropriate levels of approval. A copy of the approval memorandum must be attached to the R/W Certification. Inclusion in bid documents and notification of Resident Engineer as outlined above are also required.

14.02.06.02 Certification Statements

The following Certification statement is used on the initial submittal of a Special Certification No. 3:

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3). The project may be advertised at any time. Approvals are attached for the work-around. Appropriate notification has been included in the bid documents. An updated Special Certification No. 3 will be provided by (date) ."

The following Certification statement is used on the "Updated" Special Certification No. 3 required no later than 15 working days prior to bid opening:

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3). The project has been advertised and the contract may be awarded. Approvals are attached for the work-around. I have confirmed that all appropriate notifications have been included in the bid documents concerning said work-around."

14.02.07.00 R/W Certification Approval and Distribution

After the Certification is prepared in accordance with the current status of the property rights, it must be approved by the DDC for R/W or the delegated representative. RW will submit the original to Project Development and distribute copies of the Certification to the Certification file, the Office Engineer (HQ, district or region), the Design Engineer, and others as appropriate

14.02.07.01 **Submitted With PS&E**
Submittal

The DDC-R/W shall:

- Deliver (address) the R/W Certification to the District Director, Attention DDC-Project Development, at the earliest date possible after receiving the request to certify the project, but no later than two months prior to the proposed advertising date. The R/W Certification is then attached to the PS&E submittal for delivery to the Office Engineer.
- Obtain HQ R/W advance approval for any deviation in the Certification requirements as set forth in Section 14.01.06.00.
- Obtain advance approval, through HQ R/W, for authority to issue a "Special Certification No. 3 with Work-Around" and secure concurrence, as necessary, from district Project Development and Construction.
- Coordinate with district Project Development concerning the status and expected delivery date of a Certification to meet tentative advertising dates.
- Report immediately to district Project Development any changes in the status and expected delivery date of a Certification that will affect the district's ability to meet the scheduled advertising date. Approval of and input into PMCS for Certification dates should be coordinated at this time.

NOTE: For the above two Items, a the R/W Project Coordinator should be responsible for reporting on the status of all projects nearing projected delivery dates to the Project Managers.

- Notify the DDC-Project Development, Project Manager, Headquarters Office Engineer, and the district Office Engineer, in writing that a Certification is rescinded or changed because of right of way reasons (see 14.01.04.02).
- Make arrangements with district Project Development to notify district R/W when a project is canceled.

When a Certification is revised, a R/W Certification No. 3 is elevated to a No. 1 or a No. 2, or the status

of a "Special Certification No. 3 with Work-Around" is updated, the district shall provide the following at least 15 working days prior to a bid opening.

- Facsimile a copy of the new executed Certification to Headquarters Office Engineer and deliver the Certification to the district Office Engineer.
- Provide district Project Development, Project Manager with a copy of the new executed Certification.
- Provide HQ R/W with a copy of the new executed Certification if they received the original..
- For projects that have been listed for advertising and include federal-aid RW or construction funds, provide two copies of the new executed Certification to either Headquarters Federal Resources or Headquarters Office of Local Programs, as appropriate. The DDC-R/W shall be responsible for determining which of these units should receive the Certification.

See Exhibit 14-EX-12 for R/W Certification approval, distribution, and time schedule.

14.02.07.02 **Not Submitted With PS&E**
Submittal

If the initial R/W Certification cannot be prepared in time to accompany the PS&E submittal, the DDC-R/W shall provide written notification to the District Director, Attention DDC-Project Development, of the anticipated Certification level (No. 1, 2, 3, or 3 with Work-Around) and the realistically anticipated date of Certification delivery. This information is required in the PS&E submittal memorandum.

When the Certification is ready to be issued, the district should address it to the District Director, Attention DDC-Project Development, and facsimile a copy of the original Certification to the Office Engineer.

For projects where federal-aid construction funds are anticipated, and when the project appears on the "Projects Tentatively Proposed for Advertisement" list, and no later than 15 working days prior to the proposed advertising date, the district should provide two copies of the original Certification to either

Headquarters Federal Resources or Headquarters
Office of Local Programs, as appropriate.

See Exhibit 14-EX-12 for R/W Certification
approval, distribution, and time schedule.

14.03.00.00 - CERTIFICATION FORMAT/CONTENTS

14.03.01.00 R/W Certification Format

The method of Certification specified under 23 CFR, Part 635.309, Subpart C, entitled “Physical Construction Authorization” is applicable to all federal-aid construction projects. Nonfederal participating projects are certified in the same manner as federal projects.

R/W Certification for all projects is made using the R/W Certification format shown in Exhibits 14-EX-3 through 14-EX-10 and 14-EX-13. Since the format contains specific wording required by FHWA, changes made in wording could invalidate the Certification. Any deviation from the format or the wording must be fully explained in the Certification and must be approved by HQ R/W.

14.03.02.00 Description of Project Being Certified

The items in the R/W Certification listed below must match the construction project that is to be advertised.

- Phase 1 Project EA
- Federal Aid Project Number
- District-County-Route(s)
- Post Mile Limits
- Location Description
- Type of Work

This data is available in the District Status of Projects and from the PS&E, which will have the most current information. (Also see Sections 14.01.08.01 and 14.02.01.00.)

The Construction and R/W Federal Aid Project Numbers, if available, should be shown on the R/W Certification. If pending, the word “pending” should be shown. If it is verified that no construction and/or R/W federal-aid exists for the project, the word NONE should appear on the certification.

14.03.03.00 Required Right of Way

All property rights required for a project must be included in the R/W Certification. A state construction project may include work on local agency streets or roads where the local agency acquired some or all of the required right of way. Those parcels acquired by the local agency must be included in the Certification.

Parcels to be included in a R/W Certification include regular right of way parcels acquired by deed, Final Order of Condemnation, Order for Possession, Right of Entry, Possession and Use Agreement, license, permit, or other acquisition documents used by certain governmental entities. This section shall include a full explanation of the circumstances regarding the status of possession on each parcel where the state does not have full legal and physical possession by virtue of a recorded deed, recorded Final Order of Condemnation, effective Order for Possession, or effective date of Right of Entry or Possession and Use Agreement.

Temporary rights, such as temporary easements (whether parcels or subparcels) and Permits to Enter (or Enter & Construct), must also be listed in the Certification. It is important to include the effective date and expiration date of any temporary rights so they may be evaluated in terms of the final construction schedule.

14.03.04.00 Certification with Rights of Entry

Certifying a project with parcels acquired under Rights of Entry (Exhibits 8-EX-24 and 8-EX-25) shall be avoided. Rights of Entry are for exceptional circumstances (e.g., emergency purposes) in accordance with 49 CFR 24.102(j) where rapid response is required and there is no time to appraise and make an offer to purchase. See Acquisition Chapter, Sections 8.09.09.00 and 8.09.09.01.

14.03.05.00 Status of Affected Railroad Operating Facilities

This section of the R/W Certification is meant to cover operating property of railroads (typically within two feet of rail crossing). The railroad determines which of their properties are operating and non-operating. See R/W Manual Chapter 8.69.00.00 for a detailed discussion on railroads.

Clearance of projects that involve railroads consists of three distinct and mandatory project deliverables:

1. CPUC Application Approval of project railroad plans for final project PS&E;
2. Identification and acquisition of railroad real property rights; and
3. Obtaining an agreement with the railroad for physical construction of a project when operating within railroad right of way.

Project right of way requirements from railroad property creates an acquisition parcel that must be covered under Section 1 of the Certification, "Status of Required Right of Way."

Depending on the complexity of Railroad involvement, either the District Railroad Coordinator, or HQ's R/W Railroad and Utilities Section is responsible for issuing a clearance memorandum (also see R/W Manual Chapter 4 and Exhibit 14-EX-10) to the Headquarters Office Engineer when all railroad matters have been resolved and the project can be advertised. The clearance memorandum forwards clauses required for the Contract Special Provisions, confirms that any required PUC authorization has been obtained for the project, and provides details of any Service Contracts and Construction and Maintenance Agreements with the railroads.

A copy of the clearance memorandum is sent to district R/W requesting that the District Railroad Agent insert the railroad clearance data into the PMCS AGRE Screen so it will print in the Agreements Column of the District Status of Projects.

The DDC-R/W usually should not provide Office Engineer or FHWA with an approved R/W Certification until the clearance memorandum has been received from Structures. If the clearance memorandum has not been received, however, the Certification shall indicate this fact.

The clearance memorandum is required for ANY project with railroad involvement that is advertised by district or Headquarters Office Engineer, even when a local agency makes the railroad arrangements.

The operating facilities of a railroad can be "affected" by a construction project in several ways, which would require a statement in this section of the Certification. (See Certification format for sample statements.)

14.03.05.01 Railroad Agreements

A “Right of Way Railroad Agreement” will be used when a Construction and Maintenance Agreement is not appropriate during both the PS&E and Construction phases of project delivery to formalize obligations between a railroad and the Department. An agreement is needed during PS&E for preliminary plan review and for protection of PS&E activities within the rail corridor. An agreement is needed during the construction phase to secure flagging services and project inspection. For example, an agreement with the railroad is used where the railroad is paid to do some work. Caltrans may not perform any work within two feet of either side of the tracks. Only railroad personnel can perform work in the track area. Refer to R/W Manual Chapter 8.69.00.00.

14.03.05.02 Clauses in Contract Special Provisions (Clearance Memorandum Required)

Clauses are required in the Special Provisions as follows:

- **Construction work will be performed within the railroad operating right of way and within 25 feet of the track**—The railroad must be provided insurance, and clauses are required in the Special Provisions.
- **Work is done in the railroad operating right of way but more than 25 feet from the track**—The contractor is responsible for damages and clauses are required in the Special Provisions.
- **Work is done over or under a railroad facility in connection with construction of a grade separation structure**—The contractor must notify the railroad when work is to be done. Railroad protection clauses are required.
- **Work is done over or under an existing grade separation**—The Agreements Branch will determine if the railroad should be notified and if clauses are required.

NOTE: The clearance memorandum is required when any work is performed within the railroad’s operating right of way, regardless of the actual distance from the railroad tracks.

14.03.05.03 Railroad Rights of Entry

A right of entry from a railroad is a key document before construction can commence. This document is a permit which allows encroachment within the rail corridor. It does not convey any real property rights. Both the project sponsor (i.e., Caltrans) and the primary contractor must obtain railroad rights of entry before the start of construction. The Department is responsible for securing rights of entry for Caltrans employees and the contractor must secure rights of entry with the railroad as a condition of contract award, and prior to ingress on railroad right of way.

A railroad “Right of Entry” does not meet the definition of Right of Entry pursuant to 49 CFR 24.102(j). Caltrans Right of Entry documents 8-EX-24 and 8-EX-25 are not used for railroad rights of entry. When railroad “rights of entry” are required, approval is to be reflected pursuant to the information contained in either a “stand alone” fully executed “Railroad Right of Entry,” or when applicable, within (attached to) a fully executed Construction and Maintenance Agreement (C&M). List the identifying right of entry or C&M reference (attachment) in the R/W Certification, Section 1 (A) “Parcels covered by other acquisition documents.”

Generally, rights of entry on railroad operating property are not **effective** until the Agreement has been fully executed.

14.03.06.00 **Material and Disposal Sites**

The R/W Certification should list all optional or mandatory material and disposal sites that require a state secured agreement and that will be made available for use for the project being certified.

On some projects, bidders are advised of available sites that have been previously tested and approved for use. Contractors make their own arrangements for use of such sites. These sites are NOT listed on the R/W Certification when the project does not require a state secured agreement with the site owner.

14.03.07.00 **Status of Required Utility Relocations**

A R/W Certification must not to be issued until either there are no required utility relocations or, if there are, that:

All utility work has been or will be completed in accordance with applicable policy and procedure including appropriate Buy America requirements covering the adjustment of utility facilities. All utility notices have been issued and arrangements have been made with the owners of all conflicting utility encroachments remaining within the right of way so that adequate control of the project right of way will be achieved. If applicable, federal participation has been determined.

AND

All utility work has been completed.

OR

All utility work will be completed by a stated date prior to award of the contract.

OR

All necessary arrangements have been made for remaining utility work to be undertaken and completed as required for proper coordination with project construction. The Contract Special Provisions provide for the coordination.

AND

All utility work completed or remaining to be completed must indicate one of the following:

- Project specific utility agreement(s) is(are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

NOTE: 23 CFR 635.309(b) requires utility arrangements to be completed prior to project construction except where it is determined such work is not feasible or practical; e.g., due to economy or special operational problems. If relocation has not been completed, the relocation schedule must be included in the R/W Certification and the Contract Special Provisions.

The R/W Certification shall include a listing by owner and type of all utility facilities located within the project right of way. For those in conflict with the project it shall also include:

- Notice number
- Notice date
- Company name
- Liability determination – percentage of state/owner expense
- Date of Executed Utility Agreement
- Federal participation
- A schedule for the utility relocation work

The schedule shall indicate:

- Specific date owner has agreed to complete work, AND/OR
- Owner has agreed to concurrent completion of required relocation work that is to be coordinated with project construction, AND/OR
- Highway contractor will complete work as part of the highway contract. A bid item number should be included in the highway contract with an explanation of the conditions of the bid item and liability for the work. If the state has any liability, include percentage of liability attributed to owner and state. If the utility relocation is eligible for federal participation, a signed copy of the Specific Authorization to Relocate Utilities memorandum must be attached to the R/W Certification. (See Utility Form RW 13-15.) Also refer to 23 CFR 645.119.

14.03.08.00 High and Low Risk Underground Facilities

A statement is **NOT** required in the R/W Certification on the status of High and Low Risk Underground Facilities within the construction project limits. Office of Project Planning and Design (OPPD) is responsible for administration of the High and Low Risk policy.

14.03.09.00 R/W Clearance

The R/W Certification requires one of the following statements:

- No improvements or obstructions were located within the project limits.
- All R/W clearance work has been completed, and no improvements or obstructions are remaining within the right of way area required for construction.
- All necessary arrangements have been made for remaining R/W clearance to be undertaken and completed as required for proper coordination with the construction schedule. (See Exhibit 14-EX-3.)

All improvements should be cleared from the right of way **prior to R/W Certification** by sale, R/W Clearance Contract, district forces, or Grantor(s) pursuant to R/W Contract agreement. When this is not possible, one or more of the following procedures will apply.

- **Remaining improvements will be removed prior to advertisement of the construction project**—Clearance contracts and sales agreements have been executed and firm dates established for completion of the work. Notification in the highway construction project bid documents is not required.
- **Remaining improvements will be removed prior to award of the construction project**—Clearance contracts and sales agreements have been executed and firm dates established for completion of the work. Notification to prospective bidders describing the location and nature of improvements that will (or may) remain after the advertising date but will be cleared prior to award of the construction contract **must** be provided in the bid documents so bidders will know they are not to include clearance of these items in their bids.
- **Removal of remaining improvements will not be complete until some time after award of the construction contract**—Clearance contracts and sales agreements have been executed and the bid documents for the project contain appropriate notification of same with a date when clearance work will be complete. Notification **must** be included in the bid documents outlining locations, time periods, and coordination aspects that prospective bidders must consider in calculating their bids and to assure they are aware that they are **not** to include removal of these items in their bids.
- **Removal of remaining improvements will be included in the plans and special provisions of the construction contract**—This option should only be considered in exceptional situations because most project construction contractors charge inordinately high amounts for demolition and salvage work. The improvements also may be in the way of other construction work. It should be noted that salvable improvements and materials cannot be sold by the contractor within the construction project limits, thereby minimizing any potential salvage value.
- **Occupied improvements will remain within the right of way.** (See Sections 14.02.07.01 and 14.02.07.02.) This situation requires use of Special Certification No. 3 with Work-Around.
- **Salvable Improvements** —The state’s policy is that salvable improvements be sold prior to project construction. An exception process is described in R/W Manual Chapter 11 requiring HQ R/W Property Management’s preapproval. When salvable improvements are listed in the R/W Certification for removal by the construction contractor, a copy of the HQ R/W preapproval memorandum must be attached to the R/W Certification.

14.03.10.00 **Airspace Agreements**

If airspace agreements are in effect within the project limits, an explanation of any arrangements required with the lessee must be included in the R/W Certification and the bid documents.

14.03.11.00 **Compliance With RAP Requirements**

This section provides assurances that all current policy and procedure requirements for relocation advisory assistance and payments have been followed. Detailed data on any remaining occupants and personal property is also provided in this section of the R/W Certification (see Exhibit 14-EX-3). (Also see requirements for Special Certification No. 3 with Work-Arounds.)

14.03.12.00 **Environmental Mitigation**

All R/W Certifications must address the status of any environmental mitigation on a project. This section describes the three status categories.

- No environmental mitigation parcels are required for the project.
- All environmental mitigation parcels on the project have been acquired.
- Acquisition of environmental mitigation parcels is ongoing. Explain acquisition status.

14.03.13.00 **Certification - Authorized Signature**

R/W Certifications are issued over the signature of the DDC-R/W or designee. The signature authority may be delegated provided it is in writing and a current copy of the delegation is on file with HQ R/W.

NOTES:

CHAPTER 14

Right of Way Certification Table of Contents

EXHIBITS

<u>Exhibit No.</u>	<u>Title</u>
14-EX-1	Title 23 Part 635 Construction and Maintenance and Part 710 Right-of-Way and Real Estate
14-EX-2	23 CFR 635.309, Subpart A
14-EX-3	Right of Way Certification
14-EX-4	Sample Minimum Certification
14-EX-5	Sample Certification No. 1 "Subject to" Railroad Clearance Letter
14-EX-6	Sample Certification No. 2 With Various Involvements
14-EX-7	Sample Certification No. 3 With Various Involvements
14-EX-8	Sample Certification No. 3 With Required Temporary Easement
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14-EX-10	Sample Railroad Clearance Letter From Office of Structures Special Projects - Agreements Section
14-EX-11	(Reserved for future use)
14-EX-12	State & Local Programs Right of Way Certification Process - Flow Chart
14-EX-13	Design-Build Certification
14-EX-14	Design-Build - Project Right of Way Statement

**TITLE 23 PART 635 CONSTRUCTION AND MAINTENANCE and
PART 710 RIGHT-OF-WAY AND REAL ESTATE**(Form #)

**§23 CFR PART 635-CONSTRUCTION AND MAINTENANCE-Subpart C-Physical Construction Authorization,
Sections §635.301, §635.303, §635.305, §635.307, §635.309****and****§23 CFR SUBCHAPTER H-RIGHT-OF-WAY AND ENVIRONMENT, PART 710-RIGHT-OF-WAY AND
REAL ESTATE, Subpart C-Project Development, Section §710.313.****§23 CFR PART 635-CONSTRUCTION AND MAINTENANCE-Subpart C-Physical Construction Authorization.****SOURCE: 40 FR 17251, Apr. 18, 1975, unless otherwise noted.****Section §635.301 Purpose.**

To prescribe the policies and procedures under which a State highway agency may be authorized to advance a Federal-aid highway project to the physical construction stage.

Section §635.303 Applicability.

The provisions of this subpart are applicable to all Federal-aid highway construction projects except projects constructed under an approved Certification Acceptance Plan.

[69 FR 7119, Feb. 13, 2004]

Section §635.305 Physical Construction.

For purposes of this subpart the physical construction of a project is considered to consist of the actual construction of the highway itself with its appurtenant facilities. It includes any removal, adjustment or demolition of buildings or major obstructions, and utility or railroad work that is a part of the contract for the physical construction.

Section §635.307 Coordination.

(a) The right of way clearance, utility and railroad work are to be so coordinated with the physical construction that no unnecessary delay or cost for the physical construction will occur.

(b) All right of way clearance, utility and railroad work performed separately from the contract for the physical construction of the project are to be accomplished in accordance with provisions of the following:

1. 23 CFR, Part 140, Subpart I;
2. 23 CFR, Part 646, Subpart B;
3. 23 CFR, Part 713, Subpart A; and
4. 23 CFR, Part 645, Subpart A.

[40 FR 17251, Apr. 18, 1975, as amended at 40 FR 25585, June 17, 1975; 64 FR 71289, Dec. 21, 1999]

Section §635.309 Authorization.

Authorization to advertise the physical construction for bids or to proceed with force account construction thereof shall normally be issued as soon as, but not until, all of the following conditions have been met:

(a) The plans, specifications and estimates (PS&E) therefor have been approved.

**TITLE 23 PART 635 CONSTRUCTION AND MAINTENANCE and
PART 710 RIGHT-OF-WAY AND REAL ESTATE (Cont.)**

(Form #)

EXHIBIT

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- (b) A statement is received from the State, either separately or combined with the information required by Section 635.309(c), that either all right of way clearance, utility and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems and the like, there shall be appropriate notification provided in the bid proposals identifying the right of way clearance, utility and railroad work which is to be underway concurrently with the highway construction.
- (c) A statement is received from the State certifying that all individuals and families have been relocated to decent, safe and sanitary housing or the State has made available to relocatees adequate replacement housing in accordance with the provisions of the current Federal Highway Administration (FHWA) directive(s) covering the administration of the Highway Relocation Assistance Program and that one of the following has application:
- (1) All necessary rights of way, including control of access rights when pertinent, have been acquired including legal and physical possession. Trial or appeal of cases may be pending in court but legal possession has been obtained. There may be some improvements remaining on the right of way but all occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage or demolish these improvements and enter on all land.
 - (2) Although all necessary rights of way have not been fully acquired, the right to occupy and to use all rights of way required for the proper execution of the project has been acquired. Trial or appeal of some parcels may be pending in court and on other parcels full legal possession has not been obtained but right of entry has been obtained, the occupants of all lands and improvements have vacated and the State has physical possession and right to remove, salvage or demolish these improvements.
 - (3) The acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. The State may request authorization on this basis only in very unusual circumstances. This exception must never become the rule. Under these circumstances, advertisement for bids or force-account work may be authorized if FHWA finds that it will be in the public interest. The physical construction may then also proceed, but the State shall ensure that occupants of residences, businesses, farms or non-profit organizations who have not yet moved from the right of way are protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature. When the State requests authorization to advertise for bids and to proceed with physical construction where acquisition or right of occupancy and use of a few parcels has not been obtained, full explanation and reasons therefore including identification of each such parcel will be set forth in the State's request along with a realistic date when physical occupancy and use is anticipated as well as substantiation that such date is realistic. Appropriate notification shall be provided in the bid proposals identifying all locations where right of occupancy and use has not been obtained.

Note: For additional information regarding certification delegation authority, review the current stewardship agreement between the FHWA and Caltrans.

- (d) The State highway agency in accordance with the provisions of 23 CFR 771.111(h), has submitted public hearing transcripts, certifications and reports pursuant to 23 U.S.C. 128.
- (e) An affirmative finding of cost effectiveness or that an emergency exists has been made as required by 23 U.S.C. 112, when construction by some method other than contract based on competitive bidding is contemplated.
- (f) Minimum wage rates determined by the Department of Labor in accordance with the provisions of 23 U.S.C. 113, are in effect and will not expire before the end of the period within which it can reasonably be expected that the contract will be awarded.
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**TITLE 23 PART 635 CONSTRUCTION AND MAINTENANCE and
PART 710 RIGHT-OF-WAY AND REAL ESTATE (Cont.)**

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EXHIBIT

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- (g) A statement has been received that right of way has been acquired or will be acquired in accordance with the current FHWA directive(s) covering the acquisition of real property or that acquisition of right of way is not required.
- (h) A statement has been received that the steps relative to relocation advisory assistance and payments as required by the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program have been taken, or that they are not required.
- (i) The FHWA Division Administrator has determined that appropriate measures have been included in the PS&E in keeping with approved guidelines, for minimizing possible soil erosion and water pollution as a result of highway construction operations.
- (j) The FHWA Division Administrator has determined that requirements of 23 CFR, Part 771 have been fulfilled and appropriate measures have been included in the PS&E to ensure that conditions and commitments made in the development of the project to mitigate environmental harm will be met.
- (k) Where utility facilities are to use and occupy the right of way, the State has demonstrated to the satisfaction of the FHWA Division Administrator that the provisions of 23 CFR 645.119(b) have been fulfilled.
- (l) The FHWA Division Administrator has verified the fact that adequate replacement housing is in place and has been made available to all affected persons.
- (m) Where applicable, area wide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231-4233.
- (n) The FHWA Division Administrator has determined that the PS&E provide for the erection of only those information signs and traffic control devices that conform to the standards developed by the Secretary of Transportation or mandates of Federal law and do not include promotional or other informational signs regarding such matters as identification of public officials, contractors, organizational affiliations and related logos and symbols.
- (o) The FHWA Division Administrator has determined that, where applicable, provisions are included in the PS&E that require the erection of funding source signs, for the life of the construction project, in accordance with Section 154 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.
- (p) In the case of a design-build project, the following certification requirements apply:
- (1) The FHWA's project authorization for final design and physical construction will not be issued until the following conditions have been met:
- (i) All projects must conform with the statewide and metropolitan transportation planning requirements (23 CFR part 450).
- (ii) All projects in air quality nonattainment and maintenance areas must meet all transportation conformity requirements (40 CFR parts 51 and 93).
- (iii) The NEPA review process has been concluded. (*See* 23 CFR 636.109).
- (iv) The Request for Proposals document has been approved.
- (v) A statement is received from the STD that either all right-of-way, utility, and railroad work has been completed or that all necessary arrangements will be made for the completion of right of way, utility, and railroad work.
-

(vi) If the STD elects to include right-of-way, utility, and/or railroad services as part of the design-builder's scope of work, then the Request for Proposals document must include:

- (A) A statement concerning scope and current status of the required services, and
 - (B) A statement which requires compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and 23 CFR part 710.
- 2 During a conformity lapse, a design-build project (including right-of-way acquisition activities) may continue if, prior to the conformity lapse, the NEPA process was completed and the project has not changed significantly in design scope, the FHWA authorized the design-build project and the project met transportation conformity requirements (40 CFR parts 51 and 93).
 - 3 Changes to the design-build project concept and scope may require a modification of the transportation plan and transportation improvement program. The project sponsor must comply with the metropolitan and statewide transportation planning requirements in 23 CFR part 450 and the transportation conformity requirements (40 CFR parts 51 and 93) in air quality nonattainment and maintenance areas, and provide appropriate approval notification to the design-builder for such changes.

[40 FR 17251, Apr. 18, 1975; 40 FR 36319, Aug. 20, 1975, as amended at 47 FR 47239, Oct. 25, 1982; 49 FR 28550, July 13, 1984; 50 FR 34093, Aug. 23, 1985; 52 FR 32669, Aug. 28, 1987; 52 FR 45173, Nov. 25, 1987; 53 FR 1921, Jan. 25, 1988; 54 FR 47075, Nov. 9, 1989; 67 FR 75926, Dec. 10, 2002; 72 FR 45336, Aug. 14, 2007]

§23 CFR SUBCHAPTER H-RIGHT-OF-WAY AND ENVIRONMENT, PART 710-RIGHT-OF-WAY AND REAL ESTATE, Subpart C-Project Development.

Section §710.313 Design-Build projects.

- (a) In the case of a design-build project, right-of-way must be acquired and cleared in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and STD right-of-way procedures. The STD shall submit a right-of-way certification in accordance with 23 CFR 635.309(p) when requesting FHWA's authorization. If the right-of-way services are included in the Request for Proposal document, the STD shall ensure that right-of-way is available prior to the start of physical construction on individual properties.
- (b) The decision to advance a right-of-way segment to the construction stage shall not impair the safety or in anyway be coercive in the context of 49 CFR 24.102(h) with respect to unacquired or occupied properties on the same or adjacent segments of project right-of-way.
- (c) Certain right-of-way acquisition and clearance services may be incorporated into the design-build contract if allowed under State law. The contract may include language that provides that construction will not commence until all property is acquired and relocations have been completed; or, the construction could be phased or segmented to allow right-of-way activities to be completed on individual properties or a group of properties, thereby allowing certification in a manner satisfactory to the STD for each phase or segment.

**TITLE 23 PART 635 CONSTRUCTION AND MAINTENANCE and
PART 710 RIGHT-OF-WAY AND REAL ESTATE (Cont.)**

(Form #)

EXHIBIT

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-
- (d) If the STD elects to include right-of-way services in the design-build contract, the following provisions must be addressed in the request for proposals document:
- (1)(i) The design-builder must submit written acquisition and relocation procedures to the STD for approval prior to commencing right-of-way activities. These procedures should contain a prioritized appraisal, acquisition, and relocation strategy as well as check points for STD approval, such as approval of just compensation, replacement housing payment calculations, replacement housing payment and moving cost claims, appraisals, administrative and stipulated settlements that exceed determined thresholds based on a risk management analysis, etc. STD's which have an FHWA approved procedures manual, in accordance with 23 CFR 710.201(c), may comply with this section by requiring the design-builder to execute a certification in its proposal that it has received the approved right-of-way manual and will comply with the procedures.
- (ii) The written relocation plan must provide reasonable time frames for the orderly relocation of residents and businesses on the project as provided at 49 CFR 24.205. It should be understood that these time frames will be based on best estimates of the time it will take to acquire the right-of-way and relocate families in accordance with certain legal requirements and time frames which may not be violated. Accordingly, the time frames estimated for right-of-way acquisition will not be compressed in the event other necessary actions preceding right-of-way acquisition miss their assigned due dates.
- (2)(i) The design-builder must establish a project tracking system and quality control system. This system must show the appraisal, acquisition and relocation status of all parcels.
- (ii) The quality control system may be administered by an independent consultant with the necessary expertise in appraisal, acquisition and relocation policies and procedures, who can make periodic reviews and reports to the design-builder and the STD.
- (3) The STD may consider the establishment of a hold off zone around all occupied properties to ensure compliance with right-of-way procedures prior to starting construction activities in affected areas. The limits of this zone should be established by the STD prior to the design-builder entering on the property. There should be no construction related activity within the hold off zone until the property is vacated. The design-builder must have written notification of vacancy from the right-of-way quality control consultant or STD prior to entering the hold off zone.
- (4) Adequate access shall be provided to all occupied properties to insure emergency and personal vehicle access.
- (5) Utility service must be available to all occupied properties at all times prior to and until relocation is completed.
- (6) Open burning should not occur within 305 meters (1,000 feet) of an occupied dwelling.
- (7) The STD will provide a right-of-way project manager who will serve as the first point of contact for all right-of-way issues.
- (e) If the STD elects to perform all right-of-way services relating to the design-build contract, the provisions in § 710.311 will apply. The STD will notify potential offerors of the status of all right-of-way issues in the request for proposal document.

[67 FR 75935, Dec. 10, 2002]

23 CFR 635.309 - SUBPART A

Contract Procedures

Section 635.107 Advertising for Bids

- A. No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization thereof by the division administrator.
- B. An Invitation For Bids shall not be issued by the State highway agency until the provisions of the applicable FHWA regulations and directives covering the administration of the Highway Relocation Assistance Program have been met, and there exists an understanding that satisfactory traffic control devices will be installed prior to acceptance of the project. The advertising shall be done in accordance with the laws, specifications, regulations, and policies of the State in which the project is located and the applicable Federal requirements set forth in this subpart and those implementing Title VI of the Civil Rights Act of 1964, under conditions that will assure free and adequate competition.
- C. The advertisement must be available to bidders a minimum of three weeks prior to opening of bids except that shorter periods may be approved by the division administrator in special cases when justified.
- D. The State highway agency shall obtain the approval of the division administrator prior to issuing any addendum to the approved plans and specifications during the advertising period. The State highway agency shall provide such assurance as may be required by the division administrator that all bidders have received any such addendum.
- E. Bidding procedures on a nondiscriminatory basis shall be afforded to all qualified bidders regardless of State boundaries and without regard to race, color, sex or national origin. If any provisions of State laws, specifications, regulations, or policies may operate in any manner contrary to Federal requirements, including Title VI of the Civil Rights Act of 1964, to prevent submission of a bid, or prohibit consideration of a bid submitted by any responsible contractor appropriately qualified in accordance with Section 635.108, such provisions shall not be applicable to Federal-aid projects. Where such nonapplicable provisions exist, notices of advertising, specifications, special provisions or other governing documents shall include a positive statement to advise prospective bidders of those provisions that are not applicable.
- F. No procedure or requirement shall be imposed by any State in connection with any project which operates to restrict competitive bidding by discriminating against the purchase of a surety bond or insurance policy from any surety or insurer outside the State and authorized to do business in the State.
- G. No public agency shall be permitted to bid in competition, or to enter into subcontracts, with private contractors.
- H. In the event that Section 635.309(c)(1) and (2), have not been complied with prior to advertisement, the advertised specifications shall include:
 - 1. A statement that physical construction may proceed when authorization is granted, but the contractor will take no action that will result in unnecessary inconvenience, disproportionate injury or any action coercive in nature to occupants of residences, businesses, farms, or non-profit organizations who have not yet moved from the right of way.
 - 2. A statement concerning any acquired or unacquired parcels of right of way for which the lack of right of occupancy and use can be expected to interfere with construction operations;
 - 3. An estimate of the length of time such interference's can be expected to continue; and

4. A statement that extensions of time will be granted, if necessary, for delays caused by interference's beyond such estimate period.
- I. The State highway agency shall include a statement substantially as follows in the advertised specifications:

Each bidder shall file a sworn statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths. The required form for the affidavit will be provided by the State to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

[39 FR 35152, Sept. 30, 1974, as amended at 40 FR 14906, Apr. 3, 1975; 40 FR 36319, Aug. 20, 1975; 49 FR 28550, July 13, 1984; 51 FR 27534, Aug. 1, 1986]

RIGHT OF WAY CERTIFICATION

(Form #)

To: (Name), _____ District Director **Date:** _____
 Attention: _____ District Division Chief
 Project Development
 Dist.-Co.-Rte.-P.M.: _____
 EA (Design Phase No.): _____
 Const. Fed.-Aid No.:¹ _____
 Right of Way Fed.-Aid No.:¹ _____

From: DEPARTMENT OF TRANSPORTATION – DISTRICT _____

Subject: Right of Way Certification No. _____ for the project _____

(Location and Work Description from PS&E)

1. **STATUS OF REQUIRED RIGHT OF WAY:** The acquisition of right of way was not required. All work proposed is within existing right of way acquired for a previous construction project.

(OR)

1. **STATUS OF REQUIRED RIGHT OF WAY:** Right of way has been acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all lands as follows:

(OR)

1. **STATUS OF REQUIRED RIGHT OF WAY:** Right of way has been, or will be acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has, or will have legal and physical possession and right to enter on all lands as follows:

A. **Total number of parcels required:** _____²

1. Parcels acquired (escrow closed or Final Order of Condemnation recorded): _____

Parcel No.	Owner	Project R/W Required ³	Excess (Yes or No)	Close of Escrow/Final Order of Condemnation Date

2. Parcels covered by Order for Possession: _____

Parcel No.	Owner	Project R/W Required	Effective Date

3. Parcels covered by executed Right of Way Contract with Possession Clause: _____

Parcel No.	Owner	Project R/W Required	Effective Date	Date Funds Deposited Into Escrow ⁴

4. Parcels covered by Possession and Use Agreement only: _____

Parcel No.	Owner	Project R/W Required	Effective Date	Date Funds Deposited Into Escrow ⁵

(To add table rows, set cursor to right of last column in empty table set, then press enter, additional table rows will populate.)

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

5. Parcels covered by Right of Entry (Requires HQ preapproved use in extraordinary circumstances only) _____⁶

Parcel No.	Owner	Project R/W Required	Effective Date	Date Funds Deposited Into Escrow ⁷

6. Parcels covered by Resolution of Necessity Only: _____⁷

Parcel No.	Owner	Project R/W Required	Resolution Date	OP Service Date (all parties)	Anticipated OP Effective Date

7. Parcels covered by other acquisition documents as follows: _____⁸

Parcel No. or Location P.M.	Owner	Project R/W Required	Document Type	Effective Date	Expiration Date	Date Funds Deposited Into Escrow

B. Construction Permits, other required permits: _____⁹

Location (P.M.)	Owner	Document Type	Effective Date	Expiration Date

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:

None Affected

(OR)

The _____ Railroad has approved the proposed work, which is within their right of way but which does not require the adjustment of railroad facilities. The necessary clauses will be placed in the contract special provisions. The project may now be advertised.

(OR)

The _____ Railroad (and when needed, the Public Utilities Commission) has approved the proposed work, which is within the railroad right of way and does require the adjustment of railroad facilities. The railroad, or its contract forces, will provide the necessary labor, materials and/or equipment to adjust their facilities. The necessary clauses will be placed in the contract special provisions. The project may now be advertised.

CPUC approval type and date: _____

C&M execution date: _____

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

3. MATERIAL/DISPOSAL SITE(S) - (Select appropriate statement/s)

- None required
- Commercial
- Optional site(s) secured as follows:
- Mandatory site(s) secured as follows:

Parcel Agreement	Owner	Document Effective Date	Expiration Date

4. STATUS OF REQUIRED UTILITY RELOCATIONS: Select appropriate statement(s), remove those that do not apply:

There are no Utility Relocations required on the project. Therefore, Buy America compliance does not apply to the utility portion of the project.

(OR)

All utility work has been or will be completed in accordance with applicable policy and procedure covering the adjustment of utility facilities. All utility notices have been issued and arrangements have been made with the owners of all conflicting utility encroachments remaining within the right of way, so that adequate control of the project right of way will be achieved. If applicable, federal participation has been determined.

(AND)

All utility work has been completed.

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(OR)

All utility work will be completed by a stated date prior to award of the contract (see schedule below).

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(OR)

All necessary arrangements have been made for remaining utility work to be completed as required for proper coordination with project construction. The special provisions in the contract provide for the coordination (see schedule below).

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(And When Applicable)

The following utilities are located within the project's right of way, but require no relocations:

Company	Facility Type

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

The following utilities are in conflict with the project and require relocations as follows:

R/W Notice No. and Date	Company	Type of Facility	Liability % (Owner = O) (State = S)	Utility Agreement Date	Federal Participation Yes ¹⁰ /No	Relocation Schedule Start & End Dates (or) Concurrent with Construction (or) Bid Item/s. List bid item information below ¹¹

List each (applicable) bid item here or state no bid items:

Bid Item No.	Owner & Facility Type	Liability % (Owner = O) (State = S)	Federal Participation (Yes/No)

5. RIGHT OF WAY CLEARANCE

There were no improvements or obstructions located within the limits of this project.

(OR)

All right of way clearance work has been completed and there are no improvements or obstructions remaining within the right of way area required for construction.

(OR)

All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

Parcel No.	Location (P.M.)	Description	Salvable Non Salvable	Method of Disposal ¹²	Date Site Available to Construction Contractor

6. AIRSPACE AGREEMENTS

There are no airspace lease properties within the limits of this project.

(OR)

All necessary arrangements have been made with the airspace lessee/s and/or special provisions in the contract to minimize conflicts between lessee/s activities and contractor's operation.

(OR)

Airspace lease (describe) has been cancelled effective (date).

(OR)

(Provide explanation of other disposition of airspace lease area).

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

7. COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS

Compliance is not required as there are no displacements on this project.

(OR)

The project has no occupied parcels (except as explained below). The State has complied with all steps relative to relocation advisory assistance and payments as required by applicable policies and procedures, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe and sanitary housing, or the State has made replacement housing available to the relocatees.

Types of relocation involved on this project: (Mark all that apply with an "X")

Personal Property Relocation	Residential Relocation	Business, Farm, Nonprofit Relocation

Exceptions:

Occupants of residences, businesses, farms and nonprofit organizations who have not yet moved from the right of way will be protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

Parcel No.	Location (P.M.) Owner or Tenant	Name of Occupant	Date to Vacate	Type of Occupancy ¹³

Explanation: Describe the exceptions and the reason the R/W is not clear.

8. COOPERATIVE AGREEMENTS:

None Required

(OR)

List names of cooperating entities/agencies, agreement/document number, and date/s approved.

Agency	Agreement No. or Document No.	Date
		MM-DD-YY

9. ENVIRONMENTAL MITIGATION

No environmental mitigation parcels are required for this project.

(OR)

All environmental mitigation parcels on the project have been acquired.

(OR)

Acquisition of environmental parcels is ongoing (include explanation below).

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

10. CERTIFICATION

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(1) or (C)(2). The project may be advertised with contract award being made at any time.

(OR)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. The project will be certified as conforming to Paragraph (C)(1) or (C)(2) by _____ (date).

(AND)

(Explanation and reasons why a Certification #3 is being used and substantiation that the Cert #1 or #2 date given above is realistic.)

(OR)

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. Approvals are attached for the work-around. Appropriate notification has been included in the Bid Documents. An updated Certification No. 3W will be provided by _____."¹⁴

(OR)

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project has been advertised and the contract may be awarded. Approvals are attached for the work-around. I have confirmed that all appropriate notifications have been included in the Bid Documents concerning said work-around."¹⁵

By:

Print Name of Caltrans Authorized Right of Way
Representative
(or person authorized in writing to sign Certification)

Title:

District Division Chief – Right of Way

Date:

Construction Federal-Aid No.:

Right of Way Federal-Aid No.:

RIGHT OF WAY CERTIFICATION (Cont.)

(Form #)

EXHIBIT

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EA# _____

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(AND)

Applicable for Certification No. 3, 3W

Name
Division Chief
Division of Right of Way and Land Surveys

Date

(AND, if required)

Add FHWA signature block (Projects of Corporate Interest, Projects of Division Interest depending on delegations identified in the Project Agreement, and special Certification No. 3 & 3W for projects on the Interstate Freeway System).

Name
Realty Officer
Federal Highway Administration

Date

Endnote Instructions

- 1 Insert the word “None” or input the Federal Construction and/or Federal Right of Way Aid Number.
 - 2 Parcels listed in items A1-A7 on pages 1 and 2 should total the number shown on line A above.
 - 3 Items A1-A6: List as full acquisition, partial acquisition, fee, permanent easement (including type), temporary construction easement, etc. Detail should be added showing expiration dates of documents with fixed termination dates, i.e., temporary easements.
 - 4 Funds must be deposited into an escrow account and made available, as legally permissible, to the grantor/s, as a condition of use of a possession clause in a right of way contract. If funds are not deposited into escrow, the certification will be a 3W.
 - 5 Funds must be deposited into an escrow account and be made available, as legally permissible, to the grantor/s, as a condition of use. If funds are not deposited into escrow, the certification will be a 3W.
 - 6 Rights of Entry must only be used in emergencies, or extremely unusual/extraordinary circumstances. Rights of Entry requested for unusual/extraordinary circumstances must be preapproved by the Division of HQ RW&LS. When applicable, funds must be deposited into an escrow account and be made available, as legally permissible, to the grantor/s, as a condition of using a right of entry.
 - 7 To be used only rarely and will only allow for a Certification No. 3. The Resolution(s) of Necessity must already be adopted. All certifications that include RON adoptions as the minimum basis for certification, must be preapproved by the Division of HQ RW&LS. Funds must be deposited into an escrow account and be made available, as legally permissible, to the grantor/s.
 - 8 This section covers acquisitions where the document is a license, permit, etc., not otherwise covered by A1-A6 above. When applicable, funds must be deposited into an escrow account and made available, as legally permissible, to the grantor/s. If funds, when applicable, have not been deposited into escrow, the certification will be a 3W. If there are no funds associated with and acquisition in this section, input NA in the “Date Funds Deposited Into Escrow” column.
 - 9 Detail should be added showing expiration dates of documents with fixed termination dates.
 - 10 A copy of Specific Authorization (RW 13-15) to Relocate Facility Utilities Memorandum must be attached for each facility relocation item.
 - 11 Additional information is required for each bid item if highway contractor will complete work as part of highway contract.
 - 12 Demolition Contract, Construction Contractor, or Owner.
 - 13 Residential, Business, Farm, Nonprofit Organization, or Personal Property only.
 - 14 Certification statement to be used on the initial submittal of Special Certification No. 3.
 - 15 Certification statement to be used on the updated Special Certification No. 3 required no later than 15 days prior to bid opening.
-
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SAMPLE MINIMUM CERTIFICATION

(Form #)

To: (Name), District Director
Attention: District Division Chief
Project Development

Date:
File: Dist.-Co.-Rte.-KP/PM: _____
EA (Design Phase No): _____
Const. Fed-Aid No: _____
Right of Way Fed-Aid No: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 1 for the project in _____.

1. **STATUS OF REQUIRED RIGHT OF WAY:** The acquisition of right of way was not required. All work proposed is within existing right of way acquired for a previous construction project.
2. **STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:** None affected.
3. **MATERIAL/DISPOSAL SITE(S):** None required.
4. **STATUS OF REQUIRED UTILITY RELOCATIONS:** None required.
5. **RIGHT OF WAY CLEARANCE:** There are no improvements or obstructions located within the limits of this project.
6. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
7. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** Compliance was not required as there were no displacements for this project.
8. **ENVIRONMENTAL MITIGATION:** No environmental mitigation parcels are required for the project.
9. **CERTIFICATION:** I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(1). The project may be advertised with contract award being made at any time.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: Headquarters, Office Engineer /Attn.: Scheduling Engineer

SAMPLE CERTIFICATION NO. 1 "SUBJECT TO" RAILROAD CLEARANCE LETTER

(Form #)

To: (Name), District Director **Date:**

Attention: District Division Chief **File:** Dist.-Co.-Rte.-KP/PM: _____
 Project Development EA (Design Phase No.): _____
 Const. Fed-Aid No: _____
 Right of Way Fed-Aid No: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 1 for the Project in _____

1. **STATUS OF REQUIRED RIGHT OF WAY:** The acquisition of right of way was not required. All work proposed is within existing right of way acquired for a previous construction project.
2. **STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:** Clearance letter has not been received from the Office of Structures. *The involvement with the Peanut County Transportation Company includes: a service contract to cover both the widening of the existing grade crossing (PUC No. B-615.5) and changing the crossing protection devices; insurance clauses in the Special Provisions; and the coordination of work clauses in the Special Provisions. PUC approval is also necessary.* This Certification is subject to the clearance letter from the Office of Structures.
3. **MATERIAL/DISPOSAL SITE(S):** None required.
4. **STATUS OF REQUIRED UTILITY RELOCATIONS:** None required. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved.

 The following utilities are located within the project rights of way but require no relocation:

Company	Type of Facility
Dade County Water	Water
Western Sierra Municipal District	Sewer
California Water & Power	Electric
5. **RIGHT OF WAY CLEARANCE:** There are no improvements or obstructions located within the limits of this project.
6. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
7. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** Compliance was not required as there were no displacements for this project.
8. **ENVIRONMENTAL MITIGATION:** No environmental mitigation parcels are required for the project.
9. **CERTIFICATION:** I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(1). The project may be advertised with contract award being made at any time.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: District or Headquarters, Office Engineer /Attn.: Scheduling Engineer

SAMPLE CERTIFICATION NO. 2 WITH VARIOUS INVOLVEMENTS

(Form #)

To: (Name), District Director **Date:**
 Attention: District Division Chief **File:** Dist.-Co-Rte-KP/PM: _____
 Project Development EA _____
 Const. Fed-Aid No. _____
 Right of Way Fed-Aid No. _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 2 for the Project in _____

1. STATUS OF REQUIRED RIGHT OF WAY: Right of way has been acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

- A. Total number of parcels required 12
- 1) Parcel acquired (escrow closed or Final Order of Condemnation recorded) 4
- 2) Parcels covered by Right of Entry (RE) 2

Parcel No.	Owner	Type	Effective Date
4355	So. Pacific Trans. Co.	RE	02-1-88
4356	IBM	RE	03-1-88

Parcel 4355 - S.P.T.C: Right of Entry contained in executed C&M Agreement.

Parcel 4356 - IBM: IBM has been involved from the very beginning of development of this project. They are in full agreement with the transaction. The final documents for this transaction are being processed. However, due to IBM's large size and resulting slow corporate processing procedures, these final documents will not be received for some time.

- 3) Parcels covered by other acquisition documents as follows: 6

Parcel No.	Owner	Type	Effective Date
4353	Co. of Riverside	Permit 82-5-73	2-13-88
4354	City of Los Angeles	License*	1-1-88 to 1-1-90
4357, 4358, 4359	USFS	Special Use Permit	2-1-88
4360	U.S. Navy	License	1-15-88

* Parcel 4354 - City of Los Angeles. License was obtained now because it will take up to 24 months for the City to grant easement.

- B. Construction permits required: 2

KP/PM	Owner	Type Document	Effective Date	Expiration Date
3.0 (1.87)	B.C. Downs	Construction Permit	3-1-88	Completion of Construction
3.8 (2.35)	U.R. Graycee	"	3-1-88	"

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES: Clearance letter has been received from Office of Structures. This project is now satisfactory for advertising insofar as the Southern Pacific Transportation Company is concerned.

3. MATERIAL/DISPOSAL SITES: Material sites - none required.
 Disposal sites - Optional sites provided as follows:

Parcel Agreement No.	Owner	Document Date	Expiration Date
M/S#182	Bureau of Land Mgmt.	7-22-86	Perpetual Withdrawal
Pcl. 18388	Forest Aggregates	12-3-87	12-3-89

5. **STATUS OF REQUIRED UTILITY RELOCATIONS:** None required. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved.

The following utilities are located within the project rights of way but require no relocation:

Company	Type of Facility
Paramount County Water	Water
Western Sierra Municipal District	Sewer
California Water & Power	Electric

6. **RIGHT OF WAY CLEARANCE:** There are no improvements or obstructions remaining within the right of way area required for construction.
7. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
8. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** The project has no occupied parcels. The State has complied with all the steps relative to relocation advisory assistance and payments as required by applicable policy and procedure, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe and sanitary housing, or the State has made replacement housing available to the relocatees.

Types of relocation involved on this project: Personal property relocation and Residential relocation.

9. **ENVIRONMENTAL MITIGATION:** All environmental mitigation parcels on the project have been acquired.
10. **CERTIFICATION:** I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(2). The project may be advertised with contract award being made at any time.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: District or Headquarters, Office Engineer /Attn: Scheduling Engineer

SAMPLE CERTIFICATION NO. 3 WITH VARIOUS INVOLVEMENTS

(Form #)

To: (Name), District Director **Date:**
 Attention: District Division Chief **File:** Dist.-Co.-Rte.-KP/PM: _____
 Project Development EA (Design Phase No): _____
 Right of Way Fed-Aid No: _____
 Const. Fed-Aid No.: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 3 for the project in _____.

1. STATUS OF REQUIRED RIGHT OF WAY: Right of way has been acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

- A. Total number of parcels required 51
- 1) Parcel acquired (escrow closed or Final Order of Condemnation recorded) 47
- 2) Parcels covered by Order for Possession (OP) 3

Parcel No.	Owner	Effective Date
23080	George Brown	11-13-94
23090	Capital Chevrolet	01-15-95
23094	Katie Smith, et al	02-30-95

- 3) Parcels covered by Right of Entry 1

Parcel No.	Owner	Type	Effective Date
23096	George Smith, et ux	Poss. Clause in Appv'd RC*	3-1-95

* Possession Clause in Right of Way Contract effective March 1, 1995. A settlement has been reached and Right of Way Contract executed and approved. A Right of Entry was included in the Right of Way Contract due to anticipated problems and length of time to get a reconveyance on trust deed encumbering property. Right of Way Contract is encumbered and escrow is fully funded. It is anticipated escrow will close on or before July 3, 1995.

- B. Construction permits required: 7

KP/PM	Owner	Type of Document	Effective Date	Expiration Date
12.7 (7.9)	Texaco, Inc	Permit to Enter	05-19-95	Completion of Construction
13.0 (8.1)	Sheridan	" " "	03-25-95	" " "
11.9 (7.4)	Goushen	" " "	05-01-95	" " "
12.4 (7.7)	Nord-West	" " "	02-01-95	" " "
13.0 (8.1)	Ostman	" " "	02-08-95	" " "
13.4 (8.3)	River City Park Property	" " "	02-26-95	" " "
15.0 (9.3)	Ryan	" " "	02-01-95	" " "

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES: None.

3. MATERIAL/DISPOSAL SITE(S): None required.

4. STATUS OF REQUIRED UTILITY RELOCATIONS: All necessary arrangements have been made for the completion of all remaining utility work required to be coordinated with project construction. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved. The special provisions in the contract provide for the coordination (see schedule below). Federal approvals have been obtained.

The following utilities are located within the project rights of way but require no relocation:

Company	Type Facility
Dakota County Water	Water
Western Sierra Municipal District	Sewer
California Water & Power	Electric

The following utilities are in conflict with the project and require relocation as follows:

R/W Notice No.	Notice Date	Company	Liability	Type Facility	Relocation Schedule
18-1484	11-15-94	Mountain Electric	Owner	Pole Line	Concurrent with construction
18-1486	11-15-94	Live Oak Water Co.	State	Water Line	Prior to 4-30-95
18-1501	12-06-94	Flat Land Gas Co.	Owner	Gas Line	By 5-1-95
18-1504	12-06-94	City of Hays	State	Sewer Line	Bid Item*

Additional information required for bid items:

<u>Bid Item No.</u>	<u>Type Facility</u>	<u>Liability</u>	<u>Federal Participation</u>
190	8 mm sewer line	State	Yes

Copy of Specific Authorization to Relocate Utilities memorandum attached.

5. **RIGHT OF WAY CLEARANCE:** All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

Parcel No.	KP/PM	Description	Salvable/ Non-Salvable	Method of Disposal	Date Available to Const. Contractor
24822	RT 1.1 (.7)	Carport	Salvable	Sale	4-30-95
21072	LT 1.2 (.8)	1-story building	Salvable	Owner to remove	4-15-95
71351	RT 2.0 (1.3)	Utility meters	Salvable	Relocate by utility co.	4-21-95
11449	LT 51.2 (31.8)	Adv. sign	Salvable	Sign co. to relocate	4-30-95
23088	48.OL(29.8)	*2 pumps	Non-Salvable	By const. contractor	Award of contract
23096	48.2L(29.9)	*house & outbuildings	Non-Salvable	By const. contractor	Award of contract
23098	48.25L(29.9)	*2 houses	Non-Salvable	By const. contractor	Award of contract

*Three houses, outbuildings and pumps are left for clearance by the construction contractor.

The houses and pumps are located within infected areas designated as "root rot areas" by biological consultants hired by Caltrans. The consultant's report stressed the point that vehicular and foot traffic should be kept to an absolute minimum to aid in the prevention of spreading the root rot fungus to uninfected areas. The District Project Engineer concurs with the findings of the consulting firm. We have on file letters from the FHWA and the District legal section expressing concurrence with the proposal to leave all improvements located in the root rot areas for either demolition or salvage by the highway contractor.

6. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
7. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** The project has no occupied parcels except as explained below. The State has complied with all the steps relative to relocation advisory assistance and payments as required by applicable policy and procedure, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe, and sanitary housing, or the State has made replacement housing available to the relocatees.

Types of relocation involved on this project: Personal property relocation, residential relocation, and business, farm, or nonprofit relocation.

Exceptions:

Parcel No.	KP/PM	Name Occupant/Owner/Tenant	Date to Vacate	Type Occupancy
23083	1.9 (1.2)	Atkins (owner)	5-28-95	Bus.-Personal Prop.
23087	1.9 (1.2)	Maddock (owner)	5-28-95	Bus.-Personal Prop.

Explanation: The project has two occupied business parcels: Parcel 23083-Atkins and 23087-Maddock. There are no residential occupancies on either property nor are there any building improvements to be removed. Both properties are occupied by wholesale nursery operations and the personal property to be relocated consists of nursery stock in the ground (to be balled or containerized) and stock in containers.

We currently have agreements with the occupants of 23083 (Atkins) and 23087 (Maddock) that they will complete the move of their personal property by April 21, 1995. We intend to extend the date to May 28, 1995 by a second stipulation.

The occupants of both parcels were served with valid 90 day notices, the dates of which have now expired and they continue to occupy the parcels under extension agreements so that they will have the greatest amount of time possible to remove the nursery stock.

9. ENVIRONMENTAL MITIGATION: Acquisition of environmental mitigation parcels is ongoing. *Two parcels are currently in escrow which is scheduled to close prior to Certification. The third parcel is still being negotiated. The environmental document stipulated that the project may be certified once negotiations have begun.*

10. CERTIFICATION: I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. The project will be certified as conforming to paragraph (C)(1) by July 5, 1995.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: District or Headquarters, Office Engineer - Attn: Scheduling Engineer

**SAMPLE CERTIFICATION NO. 3 WITH REQUIRED TEMPORARY
EASEMENT**

(Form #)

To: (Name), District Director **Date:**

Attention: District Division Chief **File:** Dist.-Co.-Rte.-KP/PM _____
Project Development EA (Design Phase No): _____
Const. Fed-Aid No.: _____
Right of Way Fed-Aid No.: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 3 for the Project in _____.

1. STATUS OF REQUIRED RIGHT OF WAY: Right of way has been acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

A. Total number of parcels required 7

1) Parcels acquired (escrow closed or Final Order of Condemnation recorded) **4**

2) Parcels covered by Order for Possession. **2**

Parcel No.	Owner	Effective Date
027543	Homer Sisk	2-1-89
027526	John Homerick	9-12-89

3) Parcels covered by other acquisition document is as follows:

Parcel No.	Owner	Type	Effective Date	Expiration Date
027530	Betty Boop	Temp. Esmt.	8-1-89	8-1-92

B. Construction permits, etc: **1**

KP/PM	Owner	Type Document	Effective Date	Expiration Date
12.5/(7.8)	Grigg	Permit to Enter	6-1-89	6-1-92

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES: None affected.

3. MATERIAL/DISPOSAL SITE(S): None required.

4. STATUS OF REQUIRED UTILITY RELOCATIONS: All necessary arrangements have been made for the completion of all remaining utility work to be coordinated with project construction. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved. The special provisions in the contract provide for the coordination. (See schedule below.)

The following utilities are located within the project rights of way but require no relocation:

Company	Type of Facility
Porkpie County Water	Water
Western Sierra Municipal District	Sewer
California Water & Power	Electric

**SAMPLE CERTIFICATION NO. 3 WITH REQUIRED TEMPORARY
EASEMENT (Cont'd)**

(Form #)

EXHIBIT
14-EX-8 (Rev. 6/99)

Page 2 of 2

The following utilities are in conflict with the project and require relocation as follows:

Right of Way		Liability		Type of Facility	Relocation Schedule
Notice No.	Notice Date	Company	(Owner/State)		
1543.0	9-27-88	Paramount Gas Co.	S	Gas	5-3-89
1543.5	3-26-88	Calif. Water Serv. Co.	S	Water	Concurrent w/construction

6. **RIGHT OF WAY CLEARANCE:** All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

Parcel No.	KP/PM	Description	Salv./Non-Salv.	Method of Disposal	Date Avail. to Const. Contr.
027527	13.0 (8.1)	Sign Stand	Non-Salvable	By const. contractor	Award of contract

7. **AIRSPACE AGREEMENTS:** There are no airspace lease properties within the limits of this project.
8. **COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:** Compliance was not required as there were no displacements for this project.
9. **ENVIRONMENTAL MITIGATION:** No environmental mitigation parcels are required for the project.
10. **CERTIFICATION:** I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. The project will be certified as conforming to paragraph (C)(1) by September 13, 1989.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

c: District or Headquarters, Office Engineer - Attn: Scheduling Engineer

To: (Name), District Director **Date:**

Attention: District Division Chief **File:** Dist.-Co.-Rte.-KP/PM: _____
 Project Development EA (Design Phase No.): _____
 Const. Fed-Aid No.: _____
 Right of Way Fed-Aid No.: _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Right of Way Certification No. 3 with Work-Around for the Project in _____.

- 1. STATUS OF REQUIRED RIGHT OF WAY:** Right of way has been acquired in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

- A. Total number of parcels required 252
1. Parcels acquired (escrow closed or Final Order of Condemnation recorded) 235
 2. Parcels covered by Order for Possession 8

Parcel No.	Owner	Effective Date
41009	Grant	10-15-84
41013	Bibb	10-20-84
41016	Bibb	10-20-84
41023	Easley	11-30-84
41034	Boyd	10-20-84
41686	Doyle	11-9-84
41687	Alex	11-15-84
46932	Martin	10-1-84

3. Parcels covered by Right of Entry 9

Parcel No.	Owner	Type of RE	Effective Date
40999	Safeway Stores, Inc.	RE	12-1-84
41032	Western Title Ins. Co.	RE	12-1-84
41716	ATSF Railroad	RE	11-30-84
42860-2-3	Bio Rad, A Corp.	RE	10-1-84
43863	Safeway Stores, Inc	RE	11-1-84
43881	Jensen	Poss. Clause/Appv'd RC	12-1-84
46954	Southern Pacific Trans. Co.	RE	12-19-84
47888	University of California	RE	12-1-84
47889	Southern Pacific Trans. Co	RE	12-19-84

Parcels 40999 and 43863 - Safeway Stores, Inc. - Safeway Stores has been involved from the beginning of the development of this project and are in full agreement with the transaction. The final documents for this transaction are being processed; however, due to Safeway's large size and resulting slow corporate processing procedures, these final documents will not be received for some time.

Parcel 41032 - Western Title Ins. Co. - Western Title Insurance Company is in full agreement with this transaction. However, due to their large size and the fact that their corporate headquarters is located on the East Coast, these final documents will not be received for some time.

Parcel 41716 - ATSF Railroad - Right of Entry is included in the C&M Agreement.

Parcel 42860 - Bio Rad, A Corp. - Settlement on this parcel is pending resolution of highest and best use issue. Owner contends property could be used for commercial purposes while staff appraisal valued as residential. In an attempt to give owner every opportunity and consideration, a Right of Entry was used which allows owner to proceed with obtaining a formal decision from county.

Parcel 43881 - Jensen - Right of Entry in approved Right of Way Contract. A settlement has been reached and contract executed and approved. A Right of Entry was included in Right of Way Contract due to anticipated problems and length of time to get a reconveyance on trust deed encumbering property. Right of Way Contract is encumbered and escrow is fully funded. Escrow is expected to close on or before December 18, 1985.

Parcels 46954 and 47889 - So. Pacific Trans. Co. - Right of Entry is included in the C&M Agreement.

Parcel 47888 - University of California - Government agency. Processing time required will be lengthy.

2. **STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:** Clearance letter dated May 24, 1985 has been received from Office of Structures. This project is now satisfactory for advertising insofar as the Southern Pacific Transportation Company and the Atchison, Topeka and Santa Fe Railroad are concerned.
3. **MATERIAL/DISPOSAL SITE(S):** None required.
4. **STATUS OF REQUIRED UTILITY RELOCATIONS:** All necessary arrangements have been made for remaining utility work to be undertaken and completed as required for proper coordination with the construction. Arrangements have been made with the owners of all utility encroachments which will remain within the right of way of the project so that adequate control of the right of way will be achieved. The special provisions in the contract provide for the coordination. (See schedule below.)

The following utilities are located within the project rights of way but require no relocation:

<u>Company</u>	<u>Type of Facility</u>
Peanut County Water	Water
Western Sierra Municipal District	Sewer
California Water & Power	Electric

The following utilities are in conflict with the project and require relocation as follows:

Right of Way					
Notice No.	Notice Date	Company	Liability	Type of Facility	Relocation Schedule
593.11	9-7-84	PG&E	Owner	Gas	Concurrent w/construction
593.12	10-16-84	PG&E	Owner/State	Gas	" "
593.21	11-30-84	PG&E	State	Electric	" "
593.31	9-5-84	Pacific Bell	Owner/State	Telephone	" "
593.41	9-28-84	Boxley Util. Dist	State	Water	8-30-85
592.51	7-10-84	SP Pipe Lines	Owner	Oil	7-15-85
593.81	11-29-84	Boxley Cable	Owner	TV Cable	7-5-85
593.61	5-9-85	City of Boxley	State	Sewer	Bid Item*

*Bid Item No.	Type of Facility	Liability (Owner/State)	Federal Participation
190	8mm sewer line	State	Yes

* Copy of Specific Authorization to Relocate Utilities memorandum attached.

5. **RIGHT OF WAY CLEARANCE:** All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

Parcel No.	KP/PM	Description	Salv./ Non-Salv.	Method of Disposal	Date Avail. to Const. Contr.
40871	8th/So. Ave.	Ad Sign	Salv.	By Ad Co.	7-20-85
41023	36th/So. Ave.	Ad Sign	Salv.	By Ad Co	7-20-85
40998	1434 So. Ave.	Safeway entrance bldg.	Non-Salv.	By Safeway	7-25-85
*41034	645 E. 36th	SFR	Non-Salv.	By Const. Contractor	12-20-85
43896	424/430 5th	Apt.	Salv.	Relocation	7-1-85

*Residential Occupant Work-Around until 12-20-85 (approval attached). Resident's new home being built will be ready for occupancy on 12-1-85. Builder has provided a \$10,000 bond guarantee that residence will be ready by that date. The Residential Engineer will be notified when occupant has vacated so that construction contractor can demolish.

6. AIRSPACE AGREEMENTS: There are no lease properties within the limits of this project.

7. COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM: The project has no occupied parcels except as explained below. The State has complied with all the steps relative to relocation advisory assistance and payments as required by applicable policy and procedure, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe and sanitary housing, or the State has made replacement housing available to them.

Occupants of the residences, businesses, farms or nonprofit organizations who have not yet moved from the right of way will be protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

Types of relocation involved on this project: Personal property relocation, (AND) residential relocation, (AND) business, farm or nonprofit relocation

Explanation:

Parcel No.	Location	Occupant	Date to Vacate	Type of Occupancy
*41013 and 41016	33rd/Hoffman	Bibb(Owner)	7-28-85	Bus.-Per.Prop.
**41034	645 E. 36th St.	Boyd(Owner)	12-1-85	Residential

* These parcels are covered by OP and Writ of Assistance. The personal property will be completely removed by 7-28-85. These are unimproved properties used for storage of equipment.

** Residential occupant to move into new home on 12-1-85.

8. COOPERATIVE AGREEMENTS: None.

9. ENVIRONMENTAL MITIGATION: Acquisition of environmental mitigation parcels is ongoing. The parcel required for mitigation will close escrow prior to the State's construction as required by the environmental document.

10. CERTIFICATION: I hereby certify the right of way on this project as conforming to 23 CFR 635.309(C)(3). The project may be advertised at any time. Approvals are attached for the work-around. Appropriate notification has been included in the Bid Documents. An updated Certification No. 3 with Work-Arounds will be provided by September 1, 1985.

The Certification No. 3 with Work-Arounds is required for this project because the delay in advertising required to fully clear the project would cause an estimated \$900,000 increase in the cost of construction due to inflation.

District Division Chief - Right of Way
(or person authorized in writing to sign Certification)

Attachments

- c: District or Headquarters, Office Engineer - Attn: Scheduling Engineer
- Headquarters, Program Manager, HQ R/W - Attn: Project Delivery Liaison

**SAMPLE RAILROAD CLEARANCE LETTER FROM OFFICE OF
STRUCTURES SPECIAL PROJECTS - AGREEMENTS SECTION**

(Form #)

To: _____, Chief
Office of Office Engineer

Date:

Attention: Scheduling Engineer

File: Dist. - Co. - Rte. - KP (P.M.)
EA (Design Phase No.)
Const. Fed-Aid

Right of Way Fed-Aid

From: **DEPARTMENT OF TRANSPORTATION**
Division of Structures

Subject: Project Clear for RR

The original and two copies of railroad clauses are attached for insertion into the contract Special Provisions for the construction project described above. This job is now cleared for advertisement insofar as the Southern Pacific Transportation Company and the Public Utilities Commission are concerned.

The designated District Railroad Agent shall insert the project clearance date into the Agreements column of the District Status of Projects upon receipt of a copy of this memorandum.

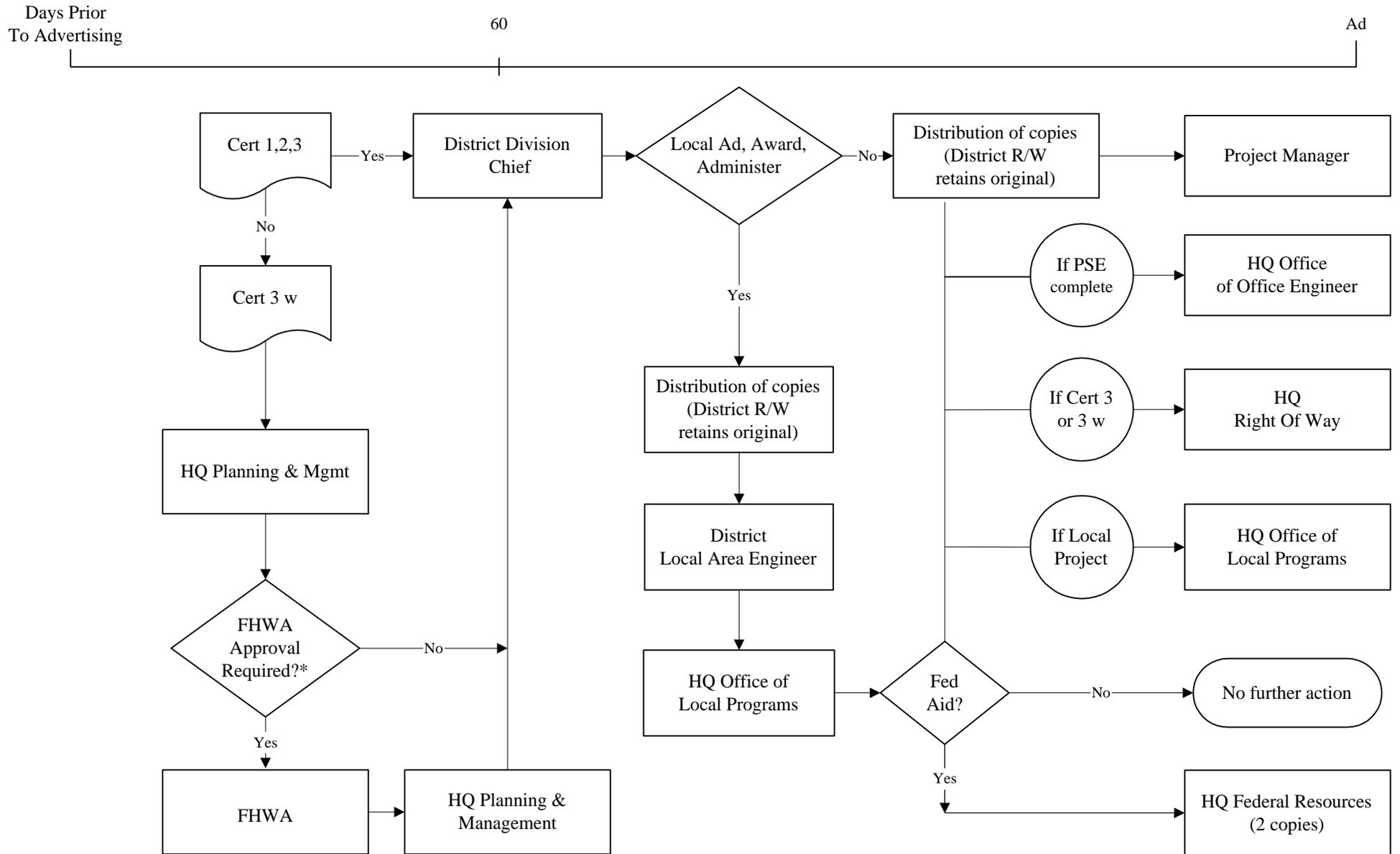
There will be no work by Railroad.

There will be no monetary contribution toward project by Railroad.

Agreements Engineer
Structures Program

Attachment

cc: District Director - Dist. #/Attn: RR Coordinator
Program Manager, RW&AM/Attn: RR Coordinator



*FHWA certification review and approvals will be sought by Headquarters (HQ) Planning and Management for "Non Exempt" projects as defined in the May 12, 1992 Stewardship agreement authorized by the Intermodal Surface Transportation Efficiency Act (ISTEA) 1991. Exempt Projects Include: Non-National Highway System (NHS), NHS less than \$1 Million, NHS 3R.

DESIGN-BUILD CERTIFICATION

(Form #)

To: (Name), _____ District Director **Date:** _____

Attention: District Division Chief **File:** Dist.-Co.-Rte.-P.M.: _____
 Project Development EA (Design Phase No.): _____
 Const. Fed.-Aid No.:¹ _____
 Right of Way Fed.-Aid No.:¹ _____

From: DEPARTMENT OF TRANSPORTATION - DISTRICT _____

Subject: Design-Build Right of Way Certification (insert a brief description of project location and purpose)

Total number of parcels required (entire project) _____

Number of parcels acquired to date _____
 Number of parcels remaining to be acquired _____

1. **STATUS OF REQUIRED RIGHT OF WAY:** This is the _____ **Design-Build Certification.**² Additional right of way is needed for this project. All right of way acquired for this project shall be in accordance with applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

A. **Parcels required for this Certification (Initial Design-Build Segment)** _____³

1. **Parcels acquired as of this submittal (Escrow Closed or Final Order of Condemnation Recorded):** _____

Parcel No.	Owner	Project R/W Required ⁴	Excess (Yes or No)	Close of Escrow/Final Order of Condemnation Date
	Last Name/Business			MM-DD-YY

2. **Parcels covered by Order for Possession:** _____

Parcel No.	Owner	Project R/W Required	CTC Resolution Date	Effective OP Date	Temporary Rights Expiration Date
	Last Name/Business			MM-DD-YY	MM-DD-YY

3. **Parcels covered by executed R/W Contract with Possession Clause:** _____

Parcel No.	Owner	Project R/W Required	Effective Date	Date Funds Deposited Into Escrow ⁵
	Last Name/Business		MM-DD-YY	MM-DD-YY

4. **Parcels covered by Possession and Use Agreement only:** _____

Parcel No.	Owner	Project R/W Required	Effective Date	Date Funds Deposited Into Escrow ⁵
	Last Name/Business		MM-DD-YY	MM-DD-YY

(To add table rows, set cursor to right of last column in empty table set, press enter, additional table rows will populate.)

DESIGN-BUILD CERTIFICATION (Cont.)

(Form #)

5. Parcels covered by other acquisition documents as follows: _____⁶

Parcel or P.M. Location	Owner	Project R/W Required	Document Type	Effective Date	Expiration Date	Date Funds Deposited Into Escrow
	Last Name/Business			MM-DD-YY	MM-DD-YY	MM-DD-YY

B. CONSTRUCTION PERMITS, OTHER REQUIRED PERMITS: _____⁷

Parcel or P.M. Location	Owner	Document Type	Effective Date	Expiration Date
	Last Name/Business		MM-DD-YY	MM-DD-YY

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:

None Affected.

(OR)

The _____ Railroad/s has/have approved the proposed work, which is within their right of way but which does not require the adjustment of railroad facilities. The necessary clauses will be placed in the contract special provisions. The project may now be advertised.

(OR)

The _____ Railroad/s (and when needed, the Public Utilities Commission) has approved the proposed work, which is within the railroad right of way and does require the adjustment of railroad facilities. The railroad/s or its/their contract forces, will provide the necessary labor, materials and/or equipment to adjust their facilities. The necessary clauses will be placed in the contract special provisions. The project may now be advertised.

CPUC approval type and date: _____

C&M execution date: _____

3. MATERIAL/DISPOSAL SITE(S): (Select appropriate statement/s, delete inapplicable statement/s)

None required

Commercial

Optional site/s secured as follows:

Mandatory site/s secured as follows:

Agreement No.	Owner	Document Effective Date	Expiration Date
	Last Name/Business	MM-DD-YY	MM-DD-YY

DESIGN-BUILD CERTIFICATION (Cont.)

(Form #)

4. STATUS OF REQUIRED UTILITY RELOCATIONS: Select appropriate statement(s), remove those that do not apply.

There are no Utility Relocations required on the project. Therefore, Buy America compliance does not apply to the utility portion of the project.

(OR)

All utility work has been or will be completed in accordance with applicable policy and procedure covering the adjustment of utility facilities. All utility notices have been issued and arrangements have been made with the owners of all conflicting utility encroachments remaining within the right of way, so that adequate control of the project right of way will be achieved. If applicable, federal participation has been determined.

(AND)

All utility work has been completed.

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(OR)

All utility work will be completed by a stated date prior to award of the contract (see schedule below).

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(OR)

All necessary arrangements have been made for remaining utility work to be completed as required for proper coordination with project construction. The special provisions in the contract provide for the coordination (see schedule below).

- Project specific utility agreement(s) is (are) fully executed and include(s) the Buy America language.
- Project is not covered by a NEPA document and Buy America requirements do not apply.
- Buy America compliance is not applicable for utility relocations as Utility Agreements are not required.

(AND, when applicable)

The following utilities are located within the project's right of way, but require no relocations:

Company	Facility Type

DESIGN-BUILD CERTIFICATION (Cont.)

(Form #)

The following utilities are in conflict with the project and require relocation/adjustment as follows (if applicable):

R/W Notice No. and Date	Company	Type of Facility	Liability % (Owner = O) (State = S)	Utility Agreement Date	Federal Participation Yes ⁸ /No	Relocation Schedule Start & End Dates (or) Concurrent with Construction (or) Bid Item/s. List bid item information below ⁹

List each (applicable) bid item here or state: no bid items.

Bid Item No.	Owner and Facility Type	Liability % (Owner = O) (State = S)	Federal Participation (Yes/No)

5. RIGHT OF WAY CLEARANCE: (Select the appropriate statement; remove those that do not apply.)

There were no improvements or obstructions located within the limits of this segment of the project.

(OR)

All right of way clearance work has been completed and there are no improvements or obstructions remaining within the right of way area required for construction within this segment of the project.

(OR)

All necessary arrangements have been made for remaining right of way clearance work to be undertaken and completed as required for proper coordination with the construction schedule as follows:

Parcel No.	Location (P.M.)	Description	Salvable Non Salvable	Method of Disposal ¹⁰	Date Site Available to Construction Contractor

6. AIRSPACE AGREEMENTS: (Select the appropriate statement; remove those that do not apply.)

There are no airspace lease properties within the limits of this project.

(OR)

All necessary arrangements have been made with the airspace lessee/s and/or special provisions in the contract to minimize conflicts between lessee/s activities and contractor's operation.

(OR)

DESIGN-BUILD CERTIFICATION (Cont.)

(Form #)

Airspace lease (describe) has been cancelled or will be canceled effective (date).

(OR)

(Provide explanation of other disposition of airspace lease area).

7. COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM:

There are no relocations required for this project.

(OR)

The project has no occupied parcels (except as explained below). The State has complied with all steps relative to relocation advisory assistance and payments as required by applicable policies and procedures, and no person has been required to relocate without at least 90 days written notice. If residential relocation was involved, all individuals and/or families have been relocated to decent, safe and sanitary housing, or the State has made replacement housing available to the relocatees.

Types of relocation involved on this project. List all that apply: Personal property relocation, residential relocation, business, farm or nonprofit relocation.

Explanation:

Parcel No.	Location	Occupant	Date to Vacate	Type of Occupancy ¹¹

8. COOPERATIVE AGREEMENTS: None required.

(OR)

List names of cooperating entities/agencies, agreement/document number, and date/s approved.

Agency	Agreement No. or Document No.	Date
		MM-DD-YY

9. ENVIRONMENTAL MITIGATION: No environmental mitigation parcels are required for this project.

(OR)

All environmental mitigation parcels on the project have been acquired.

(OR)

Acquisition of environmental parcels is ongoing (include explanation below).

DESIGN-BUILD CERTIFICATION (Cont.)

(Form #)

10. CERTIFICATION: I hereby certify the right of way for (*insert Parcel Group #*) as conforming to 23 CFR(s): Subpart C-Physical Construction Authorization, §635.309 (c)(1), (g), (h), and (p)(1)(v), §710.313, and the current Caltrans Design-Build certification process. This Design-Build project has been authorized by Section 6800 of the California Public Contract Code. All necessary arrangements for right of way clearance, utility, and railroad work have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules in the Design-Build Contract (*insert Contract No.*). Construction may commence on the portions of the construction corridor that are cleared by this certification.

By: _____
Print Name in Bold of Caltrans Authorized Right of Way Representative, (OR)
Delegated Right of Way Representative.
(Delegations must be in writing and on file in the District/Region Office, Division of Right of Way)

Title: **District Division Chief – Right of Way (OR)**
Title of Delegated Representative

Date: _____

AND

By: _____
Name
Division Chief
Headquarters Division of Right of Way and Land Surveys

Date: _____

(AND, if required)

Add FHWA signature block (Projects of Corporate Interest, Projects of Division Interest depending on delegations identified in the Project Agreement, and special Certification No. 3 & 3W for projects on the Interstate Freeway System).

By: _____
Name
Realty Officer
Federal Highway Administration

Date: _____

Construction Federal-Aid No.: _____

Right of Way Federal-Aid No.: _____

Attachments

c: District or Headquarters, Office Engineer - Attn: Scheduling Engineer
Headquarters, Program Manager, HQ R/W - Attn: Project Delivery Liaison

Endnote Instructions

- 1 Insert the word “None” or input the Federal Construction and/or Federal Right of Way Aid Number.
 - 2 Insert the word “**initial**” for the original design-build certification. For subsequent design-build certifications for a project, insert a naming convention that describes the sequence or “package” of the certification, i.e., second, third, or, segment 2, segment 3, etc.
 - 3 Parcels listed in items 1. A. 1–5 on pages 1 and 2 should total the number shown on line 1. A.
 - 4 This section, items 1. A. 1–4, list as: full acquisition, partial acquisition, fee, permanent easement (including type), temporary construction easement, etc. Detail should be added showing expiration dates of documents with fixed termination dates, i.e., temporary easements.
 - 5 Funds must be deposited into an escrow account (internal or external) and be made available (able to withdraw), as legally permissible, to the grantor/s, as a condition of use of a possession clause in a right of way contract or by a stand-alone Possession and Use Agreement.
 - 6 This section covers acquisitions where the document is a license, permit, etc., not otherwise covered by 1. A. 1-4.
 - 7 Detail should be added showing expiration dates of documents with fixed termination dates.
 - 8 A copy of Specific Authorization to Relocate Facility Utilities Memorandum (RW 13-15) must be attached for each facility relocation item.
 - 9 Additional information is required for each bid item if highway contractor will complete work as part of highway contract.
 - 10 Demolition Contract, Construction Contractor or Owner.
 - 11 Residential, Business, Farm, Nonprofit Organization or Personal Property only.
-
-

State of California
DEPARTMENT OF TRANSPORTATION

California State Transportation Agency

Memorandum

To: _____, Division Chief
Division of Right of Way and Land Surveys

Date: _____
Dist-Rte-PM _____
EA (EFIS) # _____

Attention: _____, Chief
HQ – Certification, Appraisals and Local Programs

From: _____
Deputy District Director (or equivalent)
District ____ - Right of Way
DEPARTMENT OF TRANSPORTATION

Subject: DESIGN-BUILD – PROJECT RIGHT OF WAY STATEMENT

District ____ requests HQ concurrence and FHWA approval of this Design-Build Right of Way Statement as authorized under 23 CFR 635.309(p) and 23 CFR 710.313 in order to proceed to award this design-build contract.

Project Description

The proposed project is (*refer to description from approved PR*). Give brief discussion of need, construction elements/features, etc., including date of award of Design-Build contract.

Status of Environmental Document

Will the RFP be released prior to the completion of the Environmental Document?

- Yes
 No

If YES, provide a brief description of the number of alternatives being considered and the number of parcels impacted with each alternative.

Project Right of Way Activities

Identify, quantify and discuss:

- Acquisition parcels to be acquired (in compliance with Uniform Act) and BUY AMERICA.
- Railroad involvement(s), coordination, CPUC approval(s) and resolution of agreements prior to project need.
- Utility conflicts, relocation coordination and resolution of agreements prior to project need.
- Displacements - types, compliance with Uniform Act, following steps relative to relocation advisory assistance and payments required by applicable policies and procedures, including 90-day notice requirements, DS&S, etc.
- Right of Way Plan and Technical Provisions document identifying the right of way activities and roles for handling such work – must be included in project right of way requirements for the Request for Proposals (RFP). Specify issue date.

**DESIGN-BUILD – PROJECT RIGHT OF WAY
STATEMENT (Cont.)**

(Form #)

EXHIBIT
14-EX-14 (NEW 2/2016)
Page 2 of 2

Name

Date

Page 2

- *Right of way acquisition and clearance activities in RFP must ensure right of way is available prior to start of physical construction on individual parcels.*
- *Right of Way Certification must conform to all applicable policies and procedure as outlined in Caltrans R/W Manual.*

Statement: I hereby certify, in accordance with applicable policy and procedure, that all right of way, utility and railroad work has been completed or that all necessary arrangements will be made for the completion of the right of way, utility and railroad work on this Design-Build Contract _____.

Proposed Project Milestones:

Requested by:

(Name)
Deputy District Director
Right of Way

Recommended for Approval:

(Name)
Division Chief
Division of Right of Way and Land Surveys

Approved:

(Name)
Realty Officer
Federal Highway Administration
