

RIGHT OF WAY CERTIFICATION

LOCAL PUBLIC AGENCY NAME HERE

Date: _____

Dist.-Co.-Rte.-P.M.: _____

EA (Design Phase No.): _____

Const. Fed.-Aid No.:¹ _____

Right of Way Fed.-Aid No.:¹ _____

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

(Location and Work Description from PS&E)

Project Milestones:

RW Certification Date: _____ **Ready to List:** _____ **Advertise:** _____

Bid Opening: _____ **Award:** _____ **Begin Construction:** _____

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. (Local Public Agency) 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. (Local Public Agency) has, or will have legal and physical possession and right to enter on all lands as follows:

RIGHT OF WAY CERTIFICATION (Cont.)

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 (per appraisal map)	Excess (Yes/No)	Close of Escrow Date/Final Order of Condemnation Date

2. Parcels covered by Order for Possession: _____

Parcel No.	Owner	Project R/W Required ³ (per appraisal map)	Effective Date

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

Parcel No.	Owner	Project R/W Required ³ (per appraisal map)	Effective Date of Contract ⁴	Date Funds Deposited into Escrow ⁵

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

Parcel No.	Owner	Project R/W Required ³ (per appraisal map)	Effective Date of Contract ⁴	Date Funds Deposited into Escrow ⁶

(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.)

5. Parcels covered by Right of Entry (Requires HQ preapproved use in extraordinary circumstances only) _____⁷

Parcel No.	Owner	Project R/W Required ³ (per appraisal map)	Effective Date of Contract ⁴	Date Funds Deposited into Escrow ⁸

6. Parcels covered by Resolution of Necessity Only: _____⁹

Parcel No. ¹⁰	Owner	Project R/W Required ³ (per appraisal map)	Resolution Date	Suit Filing Date & Date Funds Deposited ¹¹	OP Hearing date	OP Service Date (All Parties) & Anticipated OP Effective Date ¹²

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7. Parcels covered by other acquisition documents as follows: _____¹⁴

Parcel No. or Location P.M.	Owner	Project R/W Required ³ (per appraisal map)	Document Type	Effective Date of Contract ⁴	Expiration Date	Date Funds Deposited into Escrow

B. Construction Permits, other required permits: _____¹⁵

Location (P.M.)	Owner	Document Type	Effective Date of Contract ⁴	Expiration Date

2. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES:

None affected.

(OR)

None Affected. The _____ Railroad is within the project limits and appears on the Plans but is not impacted. This Certification is subject to the Railroad Clearance Memo along with Section 5-1.20C from the District Railroad Coordinator. The project is now cleared for advertising.

(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 document and date: _____

C&M execution date: _____

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 are in compliance with Buy America.
- Project is not covered by a NEPA document and Buy America requirements do not apply.

(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 are in compliance with Buy America.
- Project is not covered by a NEPA document and Buy America requirements do not apply.

(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 are in compliance with Buy America.
- Project is not covered by a NEPA document and Buy America requirements do not apply.

(AND WHEN APPLICABLE)

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

Company	Facility Type

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) (Local Public Agency = LPA)	Agreement Date ¹⁶	Federal Participation (Yes ¹⁷ /No)	Relocation schedule Start & End dates and bid items. (Also list bid item info to be listed directly below) ¹⁸

List each (applicable) bid item here or state no bid items:¹⁹

Bid Item No.	Owner & Facility Type	Liability % (Owner = O) (Local Public Agency = LPA)	Federal Participation (Yes/No)

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

There are 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 Disposal²⁰	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)

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

(OR)

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

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 (Local Public Agency) has complied with the Federal Uniform Relocation Assistance and Real Property Acquisition Act, as amended. The (Local Public Agency) has also complied with all the 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

RIGHT OF WAY CERTIFICATION (Cont.)

decent, safe and sanitary housing, or the (Local Public Agency) has made replacement housing available to the displacees.

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	Notice to Vacate Issue Date	Date to Vacate	Type of Occupancy ²¹

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

8. COOPERATIVE AGREEMENTS:

None required.

(OR)

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).

10. INDEMNIFICATION

The (Local Public Agency) agrees to indemnify, defend, and hold harmless the Department of Transportation (Caltrans) from any and all liability which may result in the event the right of way for this project is not clear as certified. The (Local Public Agency) shall pay, from additional funds secured outside of funding programmed for this project, any costs which arise out of delays to the construction of the project because utility facilities have not been removed or relocated, or because rights of way have not been made available to (Local Public Agency) for the orderly performance of the project work.

11. CERTIFICATION

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309 (c)(1) or (c)(2)²² and 49 CFR Part 24. 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)(i), (iii), and (iv) and 49 CFR Part 24. 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 Conditional Certification No. 3 is being used and substantiation that the Cert No. 1 or No. 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)(ii), (iii), and (iv) and 49 CFR Part 24. The project may be advertised at any time. Appropriate notification has been included in the Bid Documents. An updated Special Certification No. 3 with Work-Around will be provided by _____ (date) _____."²³

(OR)

"I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3)(ii), (iii), and (iv) and 49 CFR Part 24. The project has been advertised and the contract may be awarded. I have confirmed that all appropriate notifications have been included in the Bid Documents concerning said work-around."²⁴

RIGHT OF WAY CERTIFICATION (Cont.)

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EA# _____
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LOCAL PUBLIC AGENCY AUTHORIZED SIGNATURE

NOTE: Certification must be signed by person authorized by current resolution of City or County Board of Supervisors.

By: **Type name of authorized representative here**

Title: **Type title of authorized representative here**

Date: _____

Accepted by:

CALTRANS AUTHORIZED SIGNATURE

By: **Print name of Caltrans Authorized Right of Way Representative**

Title: **Type title of authorized representative here**

Date: _____

AND (if required per delegation matrix in R/W manual)

Division Chief
Headquarters Division of Right of Way and Land Surveys

Date: _____

(AND)

Add FHWA signature block if FHWA approval is required. Projects requiring FHWA approval include Projects of Division Interest depending on delegations identified in the Project Oversight Agreement, and Certification No. 3 & 3W (only if project is located on the Interstate Freeway System) and project is federal-aid eligible.

Realty Officer
Federal Highway Administration

Date: _____

Right of Way Certifications Instructions

1. Insert the word "None" or input the Federal Construction and/or Federal Right of Way Aid Number. If there's Federal Aid for Construction, but the Federal Aid Number has not been assigned, insert the word "Pending".
 2. Parcels listed in items A1-A7 on pages 1 and 2 should total the number shown on line A above.
 3. List as full acquisition, partial acquisition, fee, permanent easement (including type), temporary construction easement, etc., per appraisal map. Do not use acronyms. Detail should be added showing expiration dates of documents with fixed termination dates, i.e., temporary easements.
 4. Date must be day of/ or be post funds deposited date.
 5. 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.
 6. 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.
 7. Rights of Entry (Exhibits 8-EX-24 and 8-EX-25) 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.
 8. 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. Non-Caltrans Rights of Entry documents issued by Federal, State or Local governmental agencies typically do not fall into this same category and must be carefully reviewed for Uniform Act compliance.
 9. To be used only rarely and will only allow for a Conditional Certification No. 3 or Special Certification No. 3 with Work-Around. 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. Upon filing of court action for OP, funds must be deposited as appropriate and be made available, as legally permissible, to the grantor/s.
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RIGHT OF WAY CERTIFICATION (Cont.)

EXHIBIT
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EA# _____
ENDNOTE INSTRUCTIONS

10. Identify work around parcels with an asterisk.
11. There will be 2 dates in this column.
12. There will be 2 dates in this column.
13. Brief explanation of the parcel history and when it is anticipated the contractor can work on the parcel.
14. 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 an acquisition in this section, input NA in the "Date Funds Deposited into Escrow" column. Add foot note explaining why compensation is not required, Gov't Code, Transfer of Jurisdiction, etc.
15. Detail should be added showing expiration dates of documents with fixed termination dates.
16. Date of the agreement in which the Utility Company agrees to move. Use Utility Agreement Date if there is one. If there is no Utility Agreement, use the original encroachment permit date. If the original encroachment permit can not be obtained, the date from the new encroachment permit can be used.
17. If there is Federal Participation, a copy of Specific Authorization to Relocate Facility Utilities Memorandum (RW 13-15) must be attached for each facility relocation item.
18. Must include actual dates. If relocation is concurrent with construction use the construction contract start and end dates.
19. A copy of the FHWA Specific Authorization to Relocate Utilities Memorandum (RW 13-15) must be included for all Bid Items.
20. Demolition Contract, Construction Contractor, or Owner.
21. Residential, Business, Farm, Nonprofit Organization, or Personal Property only.
22. The statement should reflect (C)(1) **or** (C)(2), delete non-applicable reference from statement.

RIGHT OF WAY CERTIFICATION (Cont.)

EXHIBIT
17-EX-18 (REV 4/2021)
EA# _____
ENDNOTE INSTRUCTIONS

23. Certification statement to be used on the initial submittal of Special Certification No. 3 with Work-Around.
24. Certification statement to be used on the updated Special Certification No. 3 with Work-Around required no later than 15 days prior to bid opening. (If able to upgrade to a Certification No. 1 or No. 2, use appropriate CFR certification statement.)