Local Public Agency (LPA) Staff Qualifications for Right-of-Way Acquisition & Utility Relocation Procedures on FHWA-Western Federal Lands Projects in the State of Montana

***(FHWA Project Number/Name)***

The County of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the “AGENCY”, intending to acquire real property interests for a Federally-funded Western Federal Lands Highway Division (WFLHD) project, hereby submits its staff qualifications and agrees to the following procedures for right-of-way acquisition and utility relocation activities on the project.

To fulfill State (Title 60, Chapter 4, Part 1, MCA) and Federal (CFR Title 23) regulatory requirements, the AGENCY will acquire rights of way in accordance with the Montana Department of Transportation (MDT) Right-of-Way Operations Manual and Local Agency Guidelines (LAG) Manual.

1. The AGENCY’s expertise and personnel capabilities to accomplish the necessary right-of-way functions for the project:
   1. Below is a list of responsible AGENCY positions, for which the AGENCY has qualified staff to perform the specific right-of-way functions. Attach a listing of each individual on the AGENCY staff who currently fills those positions below. Include a brief summary of their qualifications pertaining to the specific right-of- way function(s) for which they are listed (include resume and/or evidence of said qualifications). This list shall be updated whenever staffing changes occur. The AGENCY will be approved by WFLHD to acquire based on staff qualifications.
      1. PROGRAM ADMINISTRATION

Click here to enter text.

Name/Title (attach qualifications)

* + 1. APPRAISAL

Click here to enter text.

Name/Title (attach qualifications)

* + 1. APPRAISAL REVIEW

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Name/Title (attach qualifications)

* + 1. ACQUISITION/NEGOTIATION

Click here to enter text.

Name/Title (attach qualifications)

* + 1. RELOCATION

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Name/Title (attach qualifications)

* + 1. PROPERTY MANAGEMENT

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Name/Title (attach qualifications)

* 1. Those functions for which the AGENCY does not have qualified staff shall be contracted with MDT, another LPA with WFLHD- or MDT- approved procedures, or a consultant. Consult with MDT for a listing of certified consultants, appraisers & reviewers. If the AGENCY proposes to use a consultant for any of the above functions, it shall coordinate closely with a WFLHD Realty Specialist and/or MDT Local Agency Coordinator (LAC) to ensure all requirements are met. If the AGENCY proposes to use a staff person inexperienced in acquisition negotiations on Federally-funded projects, WFLHD must be given reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
  2. If the AGENCY intends to use an appraisal waiver procedure on properties valued at $10,000 or less, it shall include the procedure in this submittal. The appraisal waiver procedure outlined in the MDT LAG manual, Appendix 10.145, has been approved. If the AGENCY submits a different procedure, it will be reviewed and approved if it provides sufficient data for Determinations of Value. The procedure shall be approved prior to the acceptance of the County/WFLHD Project Agreement.
  3. Attach a copy of the AGENCY’s administrative settlement procedure showing the approving authority(s) and the procedure involved in making administrative settlements. Refer to the LAG Manual, Chapter 11, Part 8, for guidance.

1. Acquisition documents shall be retained and made available for review by WFLHD during acquisition plan development, right-of-way acquisition, project construction, and for a three-year period following acceptance of the project. WFLHD will review and accept the following documents before proceeding with acquisition on each parcel: 1) Appraisal Reviews, 2) Wavier Valuations, 3) Donations, 4) Offers, 5) Settlement Agreements, 6) Negotiated ROW commitments, and 7) Final ROW agreements and certification.
2. Approval of the AGENCY’s procedures by WFLHD may be rescinded at any time, if the AGENCY is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.
3. References:

Montana DOT Right-of-Way & Utilities Manual:

<http://www.mdt.mt.gov/publications/manuals.shtml>

Montana DOT Local Agency Guidelines (LAG) Manual, Chapters 10, 11, & 12: <http://www.mdt.mt.gov/publications/docs/manuals/lag/chapter_10.pdf>

<http://www.mdt.mt.gov/other/webdata/external/cdb/lag_manual/ch_11.pdf>

<http://www.mdt.mt.gov/publications/docs/manuals/lag/chapter_12.pdf>

(Refer to MDT LAG Manual for sample forms and document templates)

FHWA Publication of “*Real Estate Acquisition Guide for Local Public Agencies*”:

<http://www.fhwa.dot.gov/real_estate/uniform_act/program_administration/lpa_guide/>

FHWA Federal-Aid Essentials for Local Public Agencies:

<http://www.fhwa.dot.gov/federal-aidessentials/index.cfm>

1. The AGENCY will perform utility relocations following regulatory requirements of 23 CFR 645 – Utilities

References: <http://www.ecfr.gov/cgi-bin/text-idx?SID=7e30116346547b03296e50743bff163e&mc=true&node=pt23.1.645&rgn=div5>

<http://www.mdt.mt.gov/publications/manuals.shtml>

a. Preliminary project phase (prior to NEPA completion):

i. AGENCY Utility Relocation Coordinator and qualifications: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ii. The AGENCY shall verify utility interests within the project limits.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert utility company name(s), primary contact person(s), addresses, phone number, other contact information)*

iii. The AGENCY shall submit to WFLHD copies of existing utility permits. Attach permits to this document for review, or give status of existing utilities occupying the AGENCY’s right of way. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

iv. The AGENCY shall send a Utility Notification Letter about the project to each utility interest. (WFLHD can provide a sample letter).

b. Intermediate project phase (right-of-way footprint is set):

i. WFLHD shall submit to the AGENCY a Utility Relocation Request package and authorize the AGENCY to begin negotiations for utility relocation.

ii. The AGENCY shall submit to the utility company(s) a Utility Relocation Request package, requesting a relocation plan, narrative, relocation schedule and cost estimate.

iii. The utility company and the AGENCY will negotiate and enter into an agreement following regulatory requirements of 23 CFR 645. This agreement will be coordinated through WFLHD to allow for design coordination, constructability review, and final approval, as needed.

c. Final project phase – The project cannot proceed to advertisement until Utility Agreements and/or Letters of Agreement have been executed and the Right-of-Way and Utility Certifications are complete:

i. Utility Agreements or Letter s of Agreement shall be submitted to WFLHD with the signed Right-of-Way and Utility Certifications.

ii. The AGENCY shall permit new facilities within public rights of way impacted by the project.

1. Summary of right-of-way acquisition and utility relocation requirements, and project certification:

* Acquisition procedures approved by WFLHD Realty Specialist/Manager
* Develop a documentation file for each parcel
* Develop a right-of-way commitments file

Appraisals:

* WFLHD authorizes AGENCY to begin acquisition process with right-of-way plans and exhibits
* Appraiser meets MDT criteria
* Ensure landowner is given opportunity to accompany appraiser
* Signed appraiser certification in documentation file

Appraisal Review:

* Appraisal reviewer meets MDT criteria
* Dates of value determinations precede commencement of negotiations
* Just compensation set by AGENCY
* Signed review appraiser certification in documentation file

Negotiations:

* Ensure that consultant’s negotiator(s) is licensed and has licensed broker
* Obtain evidence of clear title
* Keep a contact log for all owners
* Schedule appointments with property owners
* Submit in writing to owner s statement of just compensation
* Ensure that settlements contains construction clauses (if needed)

Right-of-Way & Utility Certifications (LAG Manual, Chapter 11):

AGENCY will submit to WFLHD a certification package, including:

* Copies of executed deeds/easements
* Completed right-of-way and utility certification forms (provided by WFLHD), signed by official(s) who has AGENCY authority
* Utility relocation agreements with relocation plan, schedule and estimate

WFLHD Realty Specialist will review and accept certifications, or complete a non-compliance report.

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| --- | --- | --- |
| Commissioner (or other authorized AGENCY representative ) |  | Date |

Approved By:

|  |  |  |
| --- | --- | --- |
| WFLHD Realty Specialist/Manager |  | Date |