

RIGHT-OF-WAY

What are Right-of-Way
Certifications?

State/Federal
Funded

Right-of-Way Certification Form

Revised 2/22/11

- Federal Funded
- State Funded

- Original
- Re-Certification

Original / Re-
certification

This form must be completed and submitted to FHWA with the PS&E package for federal-aid funded Interstate, Appalachia, and Major projects. This form shall also be submitted to FHWA for all federal-aid projects that fall under Conditions No. 2 or 3 outlined elsewhere in this form. When Condition No. 2 or 3 apply, KYTC shall resubmit this ROW Certification prior to construction contract Award. For all other federal-aid projects, this form shall be completed and retained in the KYTC project file.

Date: May 9, 2013

Project Name: Louisville-Southern Indiana ORB

Letting Date: _____

Project #: 13J7 JZ01 056 8364302R

County: Jefferson

Item #: 05-732.20

Federal #: NH 2653 (022)

Description of Project: Construction of Ohio River Bridges Project

Projects that require **NO** new or additional right-of-way acquisitions and/or relocations

- The proposed transportation improvement will be built within the existing rights-of-way and there are no properties to be acquired, individuals, families, and businesses ("relocatees") to be relocated, or improvements to be removed as a part of this project.

Projects that require new or additional right-of-way acquisitions and/or relocations

- Per 23 CFR 635.309, the KYTC hereby certify that all relocatees have been relocated to decent, safe, and sanitary housing or that KYTC has made available to relocatees adequate replacement housing in accordance with the provisions of the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program and that at least one of the following three conditions has been met. (Check those that apply.)

- Condition 1.** All necessary rights-of-way, including control of access rights when applicable, 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 KYTC has physical possession and the rights to remove, salvage, or demolish all improvements and enter on all land. Fair market value has been paid or deposited with the court.

- Condition 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 KYTC has physical possession and right to remove, salvage, or demolish all improvements. Fair market value has been paid or deposited with the court for most parcels. Fair market value for all pending parcels will be paid or deposited with the court prior to AWARD of construction contract. (See note 1 below.)

Note 1: The KYTC shall re-submit a right-of-way certification form for this project prior to AWARD of all Federal-Aid construction contracts. Award must not be made until after KYTC has obtained full legal possession and fair market value for all parcels has been paid or deposited with the court and FHWA has concurred in the re-submitted right-of-way certification.

Conditions

Project Info

Right-of-Way Certification Form

Revised 2/22/11

Conditions

- Condition 3.** The acquisition or right of occupancy and use of a few remaining parcels are not complete and/or some parcels still have occupants. However, all remaining occupants have had replacement housing made available to them in accordance with 49 CFR 24.204. The KYTC is hereby requesting authorization to advertise this project for bids and to proceed with bid letting even though the necessary rights-of-way will not be fully acquired, and/or some occupants will not be relocated, and/or the fair market value will not be paid or deposited with the court for some parcels until after bid letting. KYTC will fully meet all the requirements outlined in 23 CFR 635.309(c)(3) and 49 CFR 24.102(j) and will expedite completion of all acquisitions, relocations, and full payments after bid letting and prior to AWARD of the construction contract or force account construction. A full explanation and reason for this request, including identification of each such parcel and dates on which acquisitions, payments, and relocations will be completed, is attached to this certification form for FHWA concurrence. (See note 2.)

Note 2: The KYTC may request authorization on this basis only in unique and unusual circumstances. Proceeding to bid letting shall be the exception and never become the rule. In all cases, the KYTC shall make extraordinary efforts to expedite completion of the acquisition, payment for all affected parcels, and the relocation of all relocatees prior to AWARD of all Federal-Aid construction contracts or force account construction.

Approval

Approved: Brett Thuess  Right-of-Way Supervisor
Printed Name Signature

Approved: Keith McDonald  KYTC, Director of ROW & Utilities
Printed Name Signature

Approved: DAVID WHITWORTH  5-16-13
Printed Name Signature FHWA, ROW Officer (when applicable)

Right-of-Way Certification Form

Revised 2/22/11

Date: _____

Project Name: _____

Project #: _____

Item #: _____

Letting Date: _____

County: _____

Federal #: _____

This project has _____ total number of parcels to be acquired, and _____ total number of individuals or families to be relocated, as well as _____ total number of businesses to be relocated.

_____ Parcels where acquired by a signed fee simple deed and fair market value has been paid

_____ Parcels have been acquired by IOJ through condemnation and fair market value has been deposited with the court

_____ Parcels have not been acquired at this time (*explain below for each parcel*)

_____ Parcels have been acquired or have a "right of entry" but fair market value has not been paid or has not been deposited with the court (*explain below for each parcel*)

_____ Relocatees have not been relocated from parcels _____, _____, _____, _____, _____, _____, and _____ (*explain below for each parcel*)

Parcel #	Name/Station	Explanation for delayed acquisition, delayed relocation, or delayed payment of fair market value	Proposed date of payment or of relocation

There are _____ billboards and/or _____ cemeteries involved on this project.

There are _____ water or monitoring wells on parcels _____, _____, _____, _____, and _____. All have been acquired and are the responsibility of the project contractor to close/cap.

Form Effective Date: April 1, 2006

Last Revised: February 22, 2011

What makes a ROW
Certification a Condition 1?

Condition 1

- Per 23 CFR 635.309, the KYTC hereby certify that all relocatees have been relocated to decent, safe, and sanitary housing or that KYTC has made available to relocatees adequate replacement housing in accordance with the provisions of the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program and that at least one of the following three conditions has been met. (Check those that apply.)
- **Condition 1.** All necessary rights-of-way, including control of access rights when applicable, 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 KYTC has physical possession and the rights to remove, salvage, or demolish all improvements and enter on all land. Fair market value has been paid or deposited with the court.

Right-of-Way Certification Form

Revised 2/22/11

Condition 1

Date: May 9, 2013

Project Name: LSIORBP
 Project #: 05-732.20
 Item #: 13J7 JZ01 056 8364302R
 Letting Date: _____

County: Jefferson
 Federal #: NH 2653 (022)

This project has 106 total number of parcels to be acquired, and 37 total number of individuals or families to be relocated, as well as 0 total number of businesses to be relocated.

103 Parcels where acquired by a signed fee simple deed and fair market value has been paid

3 Parcels have been acquired by IOJ through condemnation and fair market value has been deposited with the court

_____ Parcels have not been acquired at this time (*explain below for each parcel*)

_____ Parcels have been acquired or have a "right of entry" but fair market value has not been paid or has not been deposited with the court (*explain below for each parcel*)

_____ Relocatees have not been relocated from parcels _____, _____, _____, _____, _____, and _____ (*explain below for each parcel*)

Parcel #	Name/Station	Explanation for delayed acquisition, delayed relocation, or delayed payment of fair market value	Proposed date of payment or of relocation

There are 0 billboards and/or 0 cemeteries involved on this project.

There are 1 water or monitoring wells on parcels 118, _____, _____, _____, and _____. All have been acquired and are the responsibility of the project contractor to close/cap.

Form Effective Date: April 1, 2006
Last Revised: February 22, 2011

What makes a ROW
Certification a Condition 2?

Condition 2

■ **Condition 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 KYTC has physical possession and right to remove, salvage, or demolish all improvements. Fair market value has been paid or deposited with the court for most parcels. Fair market value for all pending parcels will be paid or deposited with the court prior to AWARD of construction contract. (See note 1 below.)

Note 1: The KYTC shall re-submit a right-of-way certification form for this project prior to AWARD of all Federal-Aid construction contracts. Award must not to be made until after KYTC has obtained full legal possession and fair market value for all parcels has been paid or deposited with the court and FHWA has concurred in the re-submitted right-of-way certification.

Condition 2

This project has 6 total number of parcels to be acquired, and 0 total number of individuals or families to be relocated, as well as 0 total number of businesses to be relocated.

5 Parcels where acquired by a signed fee simple deed and fair market value has been paid

 Parcels have been acquired by IOJ through condemnation and fair market value has been deposited with the court

 Parcels have not been acquired at this time (*explain below for each parcel*)

1 Parcels have been acquired or have a "right of entry" but fair market value has not been paid or has not been deposited with the court (*explain below for each parcel*)

 Relocatees have not been relocated from parcels , , , , , , and (*explain below for each parcel*)

Parcel #	Name/Station	Explanation for delayed acquisition, delayed relocation, or delayed payment of fair market value	Proposed date of payment or of relocation
1	Sandra Dodson	deed and MOU signed, payment requested and awaiting check for del.	Aug. 15 2013

There are 0 billboards and/or 0 cemeteries involved on this project.

There are 0 water or monitoring wells on parcels , , , , and . All have been acquired and are the responsibility of the project contractor to close/cap.

What makes a ROW
Certification a Condition 3?

Condition 3

Condition 3. The acquisition or right of occupancy and use of a few remaining parcels are not complete and/or some parcels still have occupants. However, all remaining occupants have had replacement housing made available to them in accordance with 49 CFR 24.204. The KYTC is hereby requesting authorization to advertise this project for bids and to proceed with bid letting even though the necessary rights-of-way will not be fully acquired, and/or some occupants will not be relocated, and/or the fair market value will not be paid or deposited with the court for some parcels until after bid letting. KYTC will fully meet all the requirements outlined in 23 CFR 635.309(c)(3) and 49 CFR 24.102(j) and will expedite completion of all acquisitions, relocations, and full payments after bid letting and prior to AWARD of the construction contract or force account construction. A full explanation and reason for this request, including identification of each such parcel and dates on which acquisitions, payments, and relocations will be completed, is attached to this certification form for FHWA concurrence. (See note 2.)

Note 2: The KYTC may request authorization on this basis only in unique and unusual circumstances. Proceeding to bid letting shall be the exception and never become the rule. In all cases, the KYTC shall make extraordinary efforts to expedite completion of the acquisition, payment for all affected parcels, and the relocation of all relocatees prior to AWARD of all Federal-Aid construction contracts or force account construction.

Condition 3

05 Parcels where acquired by a signed fee simple deed and fair market value has been paid

03 Parcels have been acquired by IOJ through condemnation and fair market value has been deposited with the court

00 Parcels have not been acquired at this time (*explain below for each parcel*)

00 Parcels have been acquired or have a "right of entry" but fair market value has not been paid or has not been deposited with the court (*explain below for each parcel*)

01 Relocatees have not been relocated from parcels 05, ____, ____, ____, ____, ____, and ____, (*explain below for each parcel*)

Parcel #	Name/Station	Explanation for delayed acquisition, delayed relocation, or delayed payment of fair market value	Proposed date of payment or of relocation
005	Frank Greg Moore	Two Improvements to remove. One is still occupied.	30-AUG-2013
		Eviction Process is being taken. Waiting on sheriff department to serve.	

There are 0 billboards and/or 0 cemeteries involved on this project.

There are 0 water or monitoring wells on parcels ____, ____, ____, ____, and ____. All have been acquired and are the responsibility of the project contractor to close/cap.

**FROM A FEDERAL
STANDPOINT
WHY IS CERTIFICATION
REQUIRED?**

23 CFR 635.309 Authorization

- ▣ The specific requirements for this action are found at 23 CFR 635.309 (b) and (c). Because of the importance of this action, it is critical that the contract administration staff of your agency knows the exact status of the project at the time the construction contract is advertised and awarded.

Why is it important?

- ▣ **Acquisition of ROW in accordance with laws and requirements** (so prospective contracts will not be stopped by related litigation);
- ▣ **Relocation of people** (so that the contractor may enter upon the properties);
- ▣ **Identification of encroachments and acquired structures within the ROW**, and an explanation of who will remove them; and
- ▣ **Hazardous waste identification** that may be present at the site, with information on contractor's responsibility for safe disposal.

Certification Requirements

- Prior to the FHWA authorization to advertise for bids of physical construction, **the acquiring agency shall prepare a statement that:**
 - A. all ROW is clear, or if not, appropriate notification has been included in bid proposals of any work concurrent with highway construction;
 - B. all people relocated to DSS, and one of the following applies:
 1. All needed ROW acquired, all occupants have moved; **or**
 2. Not all needed ROW acquired, but right of entry obtained on all parcels, and all occupants have moved; **or**
 3. Acquisition of ROW **not** complete, and occupants still on the project (**rare exceptions only, and only if in the public interest**) - requires full explanation, notices in bid proposals, and special assurances about occupant protection.
 - C. advises that ROW acquired in accord with the FHWA directives, **and**
 - D. advises that relocation assistance and payments rules followed, if required.

Stewardship Agreement

ROW APPROVALS AND BUSINESS STANDARDS CHART

Work Activity	KYTC Action	FHWA Action	Result
Appraisals	Review, Certify, and Approve – All Projects	N/A	Appraisal Reports
Acquisitions	Perform and Approve – All Projects	N/A	Property Ownership, Title, or Easement
Relocations	Perform and Approve – All Projects	N/A	Relocations
ROW Authorizations and Agreements	Request	Authorize - All Projects (7 days)	Authorization & Agreement
ROW Certification	Approve - non-Interstate	Approve - Interstate and APD. (7 days)	Certificates

Stewardship Agreement

PROJECT/PROGRAM APPROVAL CHART

PROJECT ACTIVITIES		AGENCY RESPONSIBLE			
Approval Action	Reference Document	Interstate and APD	Non-Interstate NHS	Non-NHS Projects	Other Projects Subject to FHWA Oversight by Mutual Agreement
Appraisals	49 CFR 24	KYTC	KYTC	KYTC	KYTC
Acquisitions	23 CFR 710	KYTC	KYTC	KYTC	KYTC
Relocations	49 CFR 24	KYTC	KYTC	KYTC	KYTC
ROW Authorizations	23 CFR 710	FHWA	FHWA	FHWA	FHWA
ROW Certification	23 CFR 710 23 CFR 635	FHWA	KYTC	KYTC	KYTC

QUESTIONS?