

ATTACHMENT A

Exhibit 13-B: Right of Way Certification Local Assistance Project (off the State Highway System)

NOTE: This form is intended for use on Local Assistance projects off the State Highway System (SHS), where federal funds are used and utility relocations, railroad involvement and/or where Right of Way (R/W) or rights in real property may be required. This form could also be used when work required for Local Public Agency (LPA) projects *is located primarily off the SHS but may also encroach onto the SHS. [Eliminate this paragraph before submitting document to your DLAE]*

Local Public Agency: _____

R/W Certification No.: _____
(Enter 1, 2, or 3 for the type of Certification)

Project ID: _____

Project Location: _____

Project Description: _____

1. Status of Required Right of Way

No acquisition of R/W is required as all proposed work is within existing R/W OR R/W (has been) (will be) acquired in accordance with applicable policy and procedure covering the acquisition of real property. LPA (has) (will have) legal and physical possession and right to enter on all lands as follows:

[For items A.1-7 and B, if the total at time of completing certification is 0, enter 0 on the 1.A and 1.B lines below and eliminate corresponding table/s]

A. Total Number of Parcels Required¹: _____

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

Parcel Number	Owner	Project R/W Required ²	Excess (Yes or No)	Closed of Escrow / Final Order of Condemnation Date

2. Parcels covered by Order for Possession: _____

Parcel Number	Owner	Project R/W Required ²	Effective Date of OP

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

¹ Parcels listed in items A1-A7 on pages 1 and 2 should total the number shown on line 1A above.

² Items A1-A7: 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.

Parcel Number	Owner	Project R/W Required ²	Effective Date	Date Funds Made Available to Owner / Deposited to Escrow ³

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

Parcel Number	Owner	Project R/W Required ²	Effective Date	Date Funds Deposited into Escrow ⁴

5. Parcels covered by Right of Entry only (requires HQ R/W and FHWA pre-approval)⁵: _____

Parcel Number	Owner	Project R/W Required ²	Effective Date	Date Funds Deposited to Escrow

6. Parcels covered by Resolution of Necessity only⁶: _____

Parcel Number	Owner	Project R/W Required ²	LPA Resolution Date	Suit Filing Date and Date Funds Deposited	OP Hearing Date	Anticipated OP Service Date and Effective Date

7. Parcels covered by other acquisition documents as follows⁷: _____

Parcel Number or Location / PM	Owner	Project R/W Required ²	Type of Document	Effective Date	Expiration Date	Date Funds Deposited into Escrow

B. Construction Permits / Other Required Permits⁸: _____

Location / PM	Owner	Type of Document	Effective Date	Expiration Date

³ Funds must be deposited into an escrow account 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 contact.

⁴ Funds must be deposited into an escrow account and be made available (able to withdraw), as legally permissible, to the grantor/s, as a condition of use.

⁵ Rights of Entry must only be used in emergencies, or extremely unusual/extraordinary circumstances. All Rights of Entry must be pre-approved by the Division of HQs RW&LS and approved by FHWA.

⁶ To be used only rarely in a Certification No. 3; Resolution of Necessity must be adopted and the Order for Possession served, but is not yet effective.

⁷ This section covers acquisitions where the document is a license, permit etc., not otherwise covered by A1-A6 above. Examples include Licenses from State Lands Commission, Flood Control Districts, and Letters of Consent from US Forest Service.

⁸ These permits are not counted as parcels, are not appraised, recorded, or require payment (e.g., Permits to Enter).

2. Status of Access Control

[Select appropriate statement(s) and remove those that do not apply]:

Conventional Highway – a highway with no control of access; abutting property owners have access rights.

(OR)

Freeway / Expressway – a highway with limited/restricted rights of access.

(OR)

Non-Interstate Access Controlled Highway (or other facility with full access control). Except as provided in the approved plans for the project, all rights of access to, or from the section of highway to be improved under the project and the abutting property either are prohibited by law, or have been acquired, or are being acquired in condemnation proceedings heretofore commenced and which will be prosecuted to completion.

(OR)

Except as provided in the approved plans for the project, all rights of access to, or from the section of highway to be improved under the project and the abutting property either are prohibited by law or have been acquired under a previous project.

3. Status of Affected Railroad Operating Facilities

[Select appropriate statement(s) and remove those that do not apply]:

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: _____

4. Material Site(s)

[Select appropriate statement(s) and remove those that do not apply]:

None required

Commercial

Optional site(s) secured as follows:

Mandatory site(s) secured as follows:

Parcel Agreement Number	Owner	Document Effective Date	Expiration Date

5. Disposal Site(s)

[Select appropriate statement(s) and remove those that do not apply]:

None required

Commercial

Optional site(s) secured as follows:

Mandatory site(s) secured as follows:

Parcel Agreement Number	Owner	Document Effective Date	Expiration Date

6. Status of Required Utility Relocations

There are no Utility Relocations required on this 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.
 - ☐ 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.
 - ☐ 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.
 - ☐ 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 right of way but require no relocation:

Company	Type of Facility

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

R/W Notice and Notice Date	Company	Type of Facility	Liability % (Owner =O) (LPA = C)	Utility Agreement Date	Federal Participation (Yes or No) ⁹	Relocation Date and End Date Concurrent with Construction or Bid Item(s) listed below ¹⁰

(AND)

Bid Item Number	Owner / Type of Facility	Liability % (Owner / LPA)	Federal Participation (Yes or No)

7. 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 / PM	Description	Salvable / Non-Salvable	Method of Disposal ¹¹	Date Site Available to Construction

8. Airspace Agreements:

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

(OR)

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

(OR)

Airspace lease [describe] has been cancelled effective [date].

(OR)

⁹ A copy of Specific Authorization to Relocate Utility Facilities memorandum must be attached for each facility relocation item.

¹⁰ Additional information is required for each bid item if highway contractor will complete work as part of the highway contract.

¹¹ Demolition Contract, Construction Contract, or Owner.

Explanation of other disposition of airspace lease area.

9. Compliance with Relocation Assistance Program Requirements

Compliance was not required as there were no displacements for this project.

(OR)

The LPA has complied with the Federal Uniform Relocation Assistance and Real Property Acquisition Act, as amended. The LPA 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 a decent, safe, and sanitary housing, or the LPA has made replacement housing available to the relocatees.

Types of relocation involved on this project (check all that apply):

- ☐ Personal property relocation
- ☐ Residential relocation
- ☐ Business, farm, or nonprofit relocation

Exceptions:

Occupants of 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.

Parcel No.	Location / PM (Owner) (Tenant)	Name of Occupant	Date to Vacate	Type of Occupancy ¹²

10. Cooperative Agreements

None required.

(OR)

Agency	Agreement Number or Document Number

Attach a copy of each Cooperative Agreement

11. Environmental Mitigation

No environmental mitigation parcels are required for this project.

(OR)

All environmental mitigation parcels for the project have been acquired.

(OR)

Acquisition of environmental mitigation parcels is ongoing.

Give detailed explanation:

¹² Residential, Business, Farm, Nonprofit Organization, or Personal Property only.

12. Indemnification by Local Public Agency (LPA)

The LPA agrees to indemnify, defend, and hold harmless the Department of Transportation (Caltrans) from any and all liabilities which may result in the event the right of way for this project is not clear as certified. The LPA shall pay from its own non-matching funds, 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 LPA for the orderly performance of the project work.

13. Certification [use the appropriate statement]

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(b) **and** (c)(1) or (c)(2) 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)(iv) and 49 CFR Part 24. The project may be advertised at any time. The project will be certified as conforming to 23 CFR 635.309 (b) **and** (c)(1) or (c)(2) and 49 CFR Part 24 by (DATE).

[Attach letter explaining why a Conditional R/W Certification No. 3 is being used and substantiate that the Certification 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) with Work-Around and 49 CFR Part 24. The project may be advertised at any time. Appropriate notification has been included in the Bid Documents. An updated Certification will be provided by (DATE).

[Attach letter explaining why a Special Certification No.3 with Work-Around is being used.]

[When updating the Special Certification No.3 with Work-Around, use the following statement. This statement is 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 referenced above.]:

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(c)(3)(ii),(iii) and (iv) with Work-Around 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.

Local Public Agency: _____

Project ID: _____

Authorized by Resolution No.: _____

Dated: _____

By: _____

Signature

Title

Date

"I do hereby attest I have authority via resolution to sign this document on behalf of my agency."

The undersigned Caltrans Official has reviewed this Right of Way Certification as to form and content. Based on the review of the documents submitted, the Certificate is accepted on behalf of the LPA.

Accepted as to form and content:

By: _____ Date: _____
District Deputy Director / Office Chief – R/W

(AND)

[Both HQ Right of Way & Land Surveys and FHWA signatures required for Conditional R/W Certification No.3 and Special R/W Certification No.3 with Work-Around.]

APPROVED:

By: _____ Date: _____
Chief, HQ Division of Right of Way and Land Surveys

(AND)

APPROVED:

By: _____ Date: _____
Realty Officer
Federal Highway Administration

Distribution: 1) LPA completes and sends to DLAE for approval.
2) DLAE approves and returns to LPA.
3) LPA retains approved original in project files.

Footnote Instructions

1. Parcels listed in items A1 – A7 on pages 1 and 2 should total the number shown on line 1A above.
2. For sections A1 – A7 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.
3. Funds must be deposited into an escrow account and be made available (able to withdraw), as legally permissible, to the grantor, as a condition of use of a possession clause in a right of way contact.
4. Funds must be deposited into an escrow account and be made available (able to withdraw) as legally permissible, to the grantor as a condition of use.
5. Rights of Entry must only be used in emergencies, or extremely unusual/extraordinary circumstances. All Rights of Entry must be pre-approved by the Division of HQs RW&LS and approved by FHWA.
6. To be used only rarely in a Certification No. 3; Resolution of Necessity must be adopted and the Order for Possession served, but is not yet effective.
7. This section covers acquisitions where the document is a license, permit etc., not otherwise covered by A1 – A6 above. Examples include Licenses from State Lands Commission, Flood Control Districts, and Letters of Consent from the US Forest Service.
8. These permits are not counted as parcels, are not appraised, recorded, or require payment (e.g., Permits to Enter).
9. A copy of Specific Authorization to Relocate Facility Utilities Memorandum must be attached for each facility relocation item.
10. Additional information is required for each bid item if highway contractor will complete work as part of highway contract.
11. Demolition Contract, Construction Contract, or Owner.
12. Residential, Business, Farm, Nonprofit Organization, or Personal Property only.