

DEPARTMENT: Public Works

BY: Allen Toschi  
PHONE: 966-5356

**RECOMMENDED ACTION AND JUSTIFICATION:**

Adopt a Resolution Authorizing the Director of Public Works to Execute Right of Way Certifications Required for Federal Funding.

Recently the California Department of Transportation (Caltrans) has required Right of Way certification be included in all Requests for Authorization (RFA) packages. We are required to submit a resolution by the governing body that authorizes execution of the document.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

Staff regularly submits RFA packages to Caltrans for approval and authorization of federal funding.

The board has previously approved resolutions authorizing the Director of Public Works to execute specific documents.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

1. Approve; or
2. Forego Federal funding programmed for Roads

Financial Impact? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Current FY Cost: \$ _____	Annual Recurring Cost: \$ _____
Budgeted In Current FY? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially Funded		
Amount in Budget: \$ _____		List Attachments, number pages consecutively _____
Additional Funding Needed: \$ _____		1. Resolution _____
Source: _____		_____
Internal Transfer _____		_____
Unanticipated Revenue _____ 4/5's vote		_____
Transfer Between Funds _____ 4/5's vote		_____
Contingency _____ 4/5's vote		_____
<input type="checkbox"/> General <input type="checkbox"/> Other		_____

**CLERK'S USE ONLY:**

Res. No.: 11-127 Ord. No. \_\_\_\_\_  
 Vote - Ayes: 4 Noes: \_\_\_\_\_  
 Absent: B. Day  
 Approved  
 Minute Order Attached  No Action Necessary

**COUNTY ADMINISTRATIVE OFFICER:**

Requested Action Recommended  
 No Opinion  
 Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The foregoing instrument is a correct copy of the original on file in this office.  
 Date: \_\_\_\_\_  
 Attest: MARGIE WILLIAMS, Clerk of the Board  
 County of Mariposa, State of California  
 By: \_\_\_\_\_  
 Deputy

CAO: [Signature]

MARIPOSA COUNTY  
BOARD OF SUPERVISORS  
Resolution Number 11- 127

**A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE  
RIGHT OF WAY CERTIFICATIONS FOR FEDERAL FUNDING**

**WHEREAS**, Caltrans has been delegated authority to approve the Right of Way Certification included in the Request for Authorization (RFA) package, and to subsequently forward the package to the Federal Highway Administration (FHWA); and

**WHEREAS**, the Federal Highway Administration (FHWA) has the authority to approve the RFA package and sign/issue funding authorizations (E-76); and

**WHEREAS**, Mariposa County will submit Right of Way Certifications and RFA packages to access federal funds and provide all signed documents as required in the package submittal;

**WHEREAS**, the Director of Public Works is authorized to execute and file all certifications and other documents which Caltrans requires before awarding federal funding.

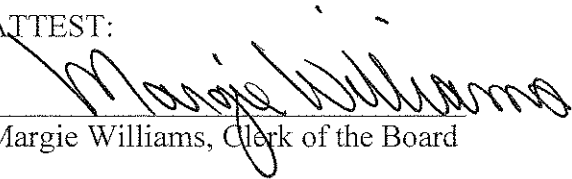
**NOW THEREFORE BE IT RESOLVED** that the Mariposa County Director of Public Works is authorized to execute Right of Way Certifications included in the Request for Authorization (RFA) packages for all federal funding. The RFA packages will be submitted to Caltrans for approval and subsequently to FHWA for approval and funding authorizations.

ON MOTION BY Supervisor STETSON, seconded by Supervisor TURPIN, this resolution is duly passed and adopted this 5<sup>th</sup> day of April, 2011 by the following vote:

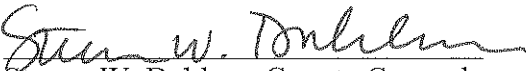
AYES: STETSON, TURPIN, CANN, ALLEN  
NOES: NONE  
EXCUSED: BOBBY  
ABSTAIN: NONE

  
\_\_\_\_\_  
Jim Allen, Chair  
Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Margie Williams, Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Steven W. Dahlem, County Counsel

**EXHIBIT 13-B Right of Way Certification Local Assistance Project  
(Off State Highway System)**

CITY OF \_\_\_\_\_

(OR)

COUNTY OF \_\_\_\_\_

(Please note: This form is intended for use on local assistance projects, off the State Highway System, where federal funds are used and where right of way or rights in real property are required. This form could also be used when local agencies of work on the State Hwy System.)

ONLY THE PARAGRAPHS RELATING TO THE PROJECT: \_\_\_\_\_  
SPECIFIC PROJECT SHOULD BE USED Federal Program # (if available)

RIGHT OF WAY CERTIFICATION NO. \_\_\_\_\_ Project Location: \_\_\_\_\_

(Insert 1, 2, or 3 for the type of Certification being made) General Description of Project \_\_\_\_\_

**1. STATUS OF REQUIRED RIGHT OF WAY**

Right of way (has been) (will be) acquired in accordance with applicable policy and procedure covering the acquisition of real property. (City) (County) (has) (will have) legal and physical possession and right to enter on all lands as follows:

(Note: Parcels shown in Items A 1-7 should total the number shown in line A.)

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

<b>Parcel No.</b>	<b>Owner</b>	<b>Effective Date</b>
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- 3. Parcels covered by Right of Entry \_\_\_\_\_ \*

<b>Parcel No.</b>	<b>Owner</b>	<b>Type**</b>	<b>Effective Date</b>	<b>Date Funds Made Available to Owner++</b>
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\*Note:Detail should be added showing expiration dates of documents with fixed termination dates, such as temporary easements.

\*\* Either RE or RE in approved RC (Right of Way Contract)

++ If no entry is made in this column a full explanation is required.

4. Parcels covered by a Right of Entry executed prior to appraisal. \_\_\_\_\_

Parcel No.	Owner	Effective Date
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5. Parcels covered by Resolution of Necessity only. \_\_\_\_\_ \*

(Used only rarely in a Certification No.3 situation where the project must be advertised, the Resolution of Necessity has been adopted but the Order of Possession has not yet been served.)

Parcel No.	Owner	City/County Resolution Date	Anticipated OP Effective Date
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6. Parcels covered by other acquisition documents as follows: \_\_\_\_\_ \*  
(Explain: This section is meant to cover acquisitions where the document is a license, permit, etc., not otherwise covered by paragraph 1, 2, 3, 4 or 5 above.)

Location (P.M./K.M.)	Owner	Type Document	Effective Date	Expiration Date
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7. Number of Parcels with a value in excess of \$500,000 \_\_\_\_\_

Dual Appraisals for each parcel? \_\_\_\_\_  
Yes No

B Construction Permits, etc., required. \_\_\_\_\_ \*

Location (P.M./K.M.)	Owner	Type Document	Effective Date	Expiration Date
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2. STATUS OF ACCESS CONTROL

A. Conventional Highway, not required

(OR)

B. Freeway/Expressway

(OR)

\*Note: Detail should be added showing expiration dates of documents with fixed termination dates, such as temporary easements.

- C. Non-Interstate Access Controlled Highway (or other facility with access control) (Access Being Acquired-Use with (b) or (c) above). Except as provided in the approved plans for the project, all right to 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)

(Access Previously Acquired-Use with (b) or (c) above.) 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**

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.

**4. MATERIAL SITE(S)**

None required

Commercial

Optional site(s) secured as follows:

Mandatory site(s) secured as follows:

Select appropriate statement

Parcel/Agreement #	Owner	Document/Effective Date	Expiration Date
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\*Note: Detail should be added showing expiration dates of documents with fixed termination dates, such as temporary easements.

5. DISPOSAL SITE(S) – Select appropriate statement.

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

Parcel/Agreement #	Owner	Document/Effective Date	Expiration Date
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6. STATUS OF REQUIRED UTILITY RELOCATIONS - Select appropriate statement(s)

None required

(OR)

All utility work has been completed.

(OR)

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

(OR)

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

(AND)

Arrangements have been made with the owners of all conflicting 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.

\*\*NOTE: (Remove words in parenthesis if not applicable.)

(AND)

Federal participation has been authorized. (If applicable.)

(AND)

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

Company	Type Facility
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(AND)

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

Right of Way Notice No.	Notice Date	Company	Liability % (Owner=O) (City/CO.=C)	Type Facility	Relocation schedule Start Date & End Date (or) Concurrent with construction (or) Bid Item*
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\*Additional information required for each bid item: (If highway contractor will complete work as part of the highway contract.)

Bid Item No.	Type Facility	Liability (Owner/City or County)	Federal Participation (Yes/No). If yes, a copy of Specific Authorization to Relocate Utilities memorandum must be attached.
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## 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 (P.M.)	Description	Salvable/ Non-Salv.	Method of Disposal	Date Site Available to Construction Contractor
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## 8. AIRSPACE AGREEMENTS

There are no airspace lease properties within the limits of this 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)

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

**Types of relocation involved on this project:**

Personal property relocation:

Residential relocation:

Business, farm or nonprofit relocation:

NOTE: (Enter only those types involved in the specific project.)

**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 (P.M.)	Name of Occupant (Owner) (Tenant)	Date to Vacate	Type Occupancy (Res., Bus., Farm, Nonprofit Org., or Personal Property only)
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**10. COOPERATIVE AGREEMENTS**

None required

(OR)

Agency  
Attach Copy of Cooperative Agreement

Agreement No. or Document No.

**11. 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 mitigation parcels is ongoing. (Give detailed explanation)

**12. CERTIFICATION (USE THE APPROPRIATE STATEMENT)**

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(b), (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 (b), (c)(1) or (c)(2) by \_\_\_\_\_  
(Date)

(AND)

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

The following certification statement will be used on the initial submittal of 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 from FHWA are attached for the work-around. Appropriate notification has been included in the Bid Documents. An updated Certification No.3 will be provided by \_\_\_\_\_."  
(Date)

(OR)

The following certification statement will be used on the updated Special Certification No. 3 required no later than 15 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 from FHWA are attached for the work-around. I have confirmed that all appropriate notifications have been included in the Bid Documents concerning said work-around."

**13. INDEMNIFICATION BY LOCAL AGENCY**

The (City) (County) 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 (City) (County) shall pay from its own nonmatching 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 (City) (County) for the orderly performance of the project work.

CITY (OR)  
COUNTY OF \_\_\_\_\_

By: \_\_\_\_\_

As authorized Resolution No. \_\_\_\_\_  
Dated \_\_\_\_\_

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 local public agency. It remains the sole responsibility of the local public agency to ensure compliance with the Federal Uniform Act and this Certificate is accepted on their behalf.

Accepted as to form and content:

By \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**Distribution:** Local agency completes this form, signs and sends it to the DLAE, who forwards it to District Right of Way for signature. Right of Way signs the completed form, keeps a copy for their files and sends original back to DLAE, who makes a copy of this file and sends the original back to the local agency. (There is an exception: If the local agency is doing work on an Interstate Highway, and requesting a Right of Way Certification #3 with a work-around, the Certification [Exhibit 13-B]) is sent to HQ Right of Way Local Programs, who forwards it to FHWA for their approval. But if the locals are doing work on the State Highway System, then they follow the instructions and guidelines of the *Right of Way Manual*, not the LAPM.)

