

RESOLUTION NO. 19-644

**A RESOLUTION OF THE TOWN OF TWISP, WASHINGTON, APPROVING THE TOWN OF TWISP POLICIES RELATED TO RIGHT OF WAY ACQUISITION PROCEDURES, AS REQUIRED BY THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, FOR ACQUISITION ACTIVITIES UTILIZING FEDERAL HIGHWAY ADMINISTRATION GRANT FUNDS.**

**WHEREAS**, the Town of Twisp, as a recipient of Federal Highway Administration Grant Funds, must acquire real property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable state and federal regulations; and

**WHEREAS**, the Washington State Department of Transportation (WSDOT) has developed policies that conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable state and federal regulations; and

**WHEREAS**, the Town of Twisp Department of Public Works is responsible for the real property acquisition and relocation activities on the projects involving the Town of Twisp and street rights of way, and other Town of Twisp projects; and

**WHEREAS**, to fulfill the above requirements, the Town of Twisp Department of Public Works must acquire right of way and real property in accordance with the policies set forth in the WSDOT Right of Way Manual and Local Agency Guidelines Manual; and

**WHEREAS**, the following right of way acquisition procedures appoint the most qualified personnel responsible for the various elements of the right of way acquisition process adopted by the Town of Twisp.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Twisp, Washington, as follows:

**Section 1. Adoption.** The Right of Way Procedures, Administrative Settlement Policy and Waiver of Appraisal Procedure attached hereto for the acquisition of real property as it relates to current and future Federal Highway Administration Funded Projects is hereby adopted as the Right of Way Acquisition Procedures for the Town of Twisp.

**Section 2. Authorization.** The Public Works Director of the Town of Twisp is the authorized person on behalf of the Town of Twisp and such Right of Way Acquisition Procedure attached hereto.

**Section 3. Effective Date.** This Resolution shall become effective upon its passage by the Council and approval by the Mayor.

**ADOPTED** by the Twisp Town Council, Twisp, Washington, this \_\_\_\_ day of June, 2019.

  
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Hans Smith, Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
Randy Kilmer, Town Clerk-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
W. Scott DeTro, Town Attorney

# Town of Twisp

## Public Works

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1220 Ewell Street • Box 278 • Twisp, WA 98856. 509-997-1311 [publicworks@townoftwisp.com](mailto:publicworks@townoftwisp.com)

### **Right of Way Procedures**

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The Town of Twisp, hereinafter referred to as "AGENCY", desiring to acquire real property (obtain an interest in, and possession of, real property) in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations (49 CFR Part 24) and state law (Ch. 8.26 RCW), and state regulations (Ch. 468-100 WAC) hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the AGENCY will acquire right-of-way (ROW) in accordance with the policies set forth in the Right of Way Manual M 26-01 and Local Agency Guidelines. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. The following relate to the AGENCY's request.
  - a. Below is a list of responsible AGENCY individual names and positions, for which the AGENCY has qualified staff to perform the specific right-of-way function(s). Attached are resumes for each individual AGENCY staff listed to perform those functions below, and a brief summary of their qualifications pertaining to the specific ROW function(s) for which they are listed. The procedures shall be updated whenever staffing changes occur. The AGENCY will be approved to acquire based upon staff qualifications.
    - i. **PROGRAM ADMINISTRATION :**  
Oversee delivery of the R/W Program on federal aid projects for the agency. Ensures R/W functions are carried out in compliance with federal and state laws, regulations, policies and procedures.

**Responsibilities/Expectations:**

- Ensures agency's approved R/W Procedures are current, including staff qualifications, and provides copies to consultants and agency staff;
- Oversight of ROW consultants;
  - use of consultant contract approved by WSDOT
  - management of ROW contracts
  - management of ROW files
  - reviews and approves actions and decisions recommended by consultants
  - Overall responsibility for decisions that are outside the purview of consultant functions
- Sets Just Compensation prior to offers being made;
- Approves administrative offer summaries per policy;

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- Ensure agency has a relocation appeal process in place prior to starting relocation activities;
- Oversight of Administrative Settlements;
- Obligation authority for their agency;
- Obtain permits (Non-Uniform Relocation Act (URA));
- Ensures there is a separation of functions to avoid conflicts of interest.
- Verifies whether or not ROW is needed, and that the property rights and/or interests needed are sufficient to construct, operate and maintain the proposed projects (see Appendix 25.176).

Andrew Denham, Public Works Director

ii. **APPRAISAL**

Prepare and deliver appraisals on federal aid projects for the agency. Ensures that appraisals are consistent and in compliance with state and federal laws, regulations, policies and procedures.

**Responsibilities/Expectations:**

- Use only qualified agency staff approved by WSDOT to perform appraisal work;
- Use appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);
- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Obtain specialist reports;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Andrew Denham, Public Works Director

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iii. **APPRAISAL REVIEW:**

Review appraisals on federal aid projects for the agency to make sure they are adequate, reliable, and have reasonable supporting data, and approve appraisal reports. Ensures appraisals are adequately supported and represent fair market value and applicable costs to cure and are completed in compliance with state and federal laws, regulations, policies and procedures.

**Responsibilities/Expectations:**

- Use only qualified agency staff approved by WSDOT to perform appraisal review work;

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- Use review appraiser from WSDOT's Approved Appraiser List if agency does not have qualified staff;
- Ensures project wide consistency in approaches to value, use of market data and costs to cure;
- Coordinate with engineering, program administration, acquisition, relocation, and/or property management as necessary.

Andrew Denham, Public Works Director

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iv. **ACQUISITION:**

Acquire, through negotiation with property owners, real property or real property interests (rights) on federal aid projects for the agency. Ensures acquisitions are completed in compliance with federal and state laws, regulations, and policies and procedures.

**Responsibilities/Expectations:**

- Use only qualified staff to perform acquisition activities for real property or real property interests, including donations;
- To avoid a conflict of interest, when the acquisition function prepares an AOS, only acquires property valued at \$10,000 or less;
- Provide and maintain a comprehensive written account of acquisition activities for each parcel;
- Prepare administrative settlement justification and obtain approval;
- Prepare Project Funding Estimates (PFE) or, when applicable, True Cost Estimates (TCE);
- Prepare Administrative Offer Summaries (AOS or Appraisal Waiver);
- Review title, and recommend and obtain approval for acceptance of encumbrances;
- Ensure acquisition documents are consistent with ROW plans, valuation, and title reports;
- Provide a negotiator disclaimer;
- Coordinate with engineering, program administration, appraisal, relocation, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each acquisition.

Andrew Denham, Public Works Director

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v. **RELOCATION:**

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Provide relocation assistance to occupants of property considered displaced by a federally funded projects for the agency. Ensures relocations are completed in compliance with federal and state laws, regulations, policies and procedures.

**Responsibilities/Expectations:**

- Prepare and obtain approval of relocation plan prior to starting relocation activities;
- Confirm relocation appeal procedure is in place;
- Provide required notices and advisory services;
- Make calculations and provide recommendations for agency approving authority prior to making payment;
- Provide and maintain a comprehensive written account of relocation activities for each parcel;
- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Andrew Denham, Public Works Director

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vi. **PROPERTY MANAGEMENT:**

Establish property management policies and procedures that will assure control and administration of ROW, excess lands, and improvements acquired on federal aid projects for the agency. Ensures property management activities are completed in compliance with federal and state laws, regulations, policies and procedures.

**Responsibilities/Expectations:**

- Account for use of proceeds from the sale/lease of property acquired with federal funds on other title 23 eligible activities;
- Keep R/W free of encroachments;
- Obtain WSDOT/FHWA approval for change in access control along interstate;
- Maintain property records;
- Coordinate with engineering, program administration, appraisal, acquisition, and/or property management as necessary;
- Maintain a complete, well organized parcel file for each displacement;
- Ensure occupants and personal property is removed from the ROW.

Andrew Denham, Public Works Director

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- b. Any functions for which the AGENCY does not have qualified staff, the Agency will contract with another local agency with approved procedures, an outside contractor, or the Washington State Department of Transportation (WSDOT). An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator (LAC) and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person approved to negotiate who is not experienced in negotiation for FHWA funded projects, the LAC must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
  - c. An AGENCY wishing to take advantage of an Appraisal Waiver (aka Administrative Offer Summary or AOS) procedure on properties valued up to \$25,000 or less should make their proposed waiver procedure a part of these procedures. The procedure outlined in LAG manual has already been approved using form LPA-003. The AGENCY may submit a procedure different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
  - d. Attached is a copy of the AGENCY's administrative settlement procedure showing the approving authority(s) and the procedure involved in making administrative settlements.
2. All projects shall be available for review by the FHWA and WSDOT at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages, and for a three year period following acceptance of the projects by WSDOT.
  3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time 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.

  
\_\_\_\_\_  
Mayor

6-25-2019  
\_\_\_\_\_  
Date

### Washington State Department of Transportation

Approved By:

\_\_\_\_\_  
Local Programs Right of Way Manager

\_\_\_\_\_  
Date

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### WAIVER OF APPRAISAL PROCEDURE

The Town of Twisp, hereinafter referred to as "AGENCY", desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives, and desiring to take advantage of the \$25,000.00 appraisal waiver process approved by the Federal Highway Administration (FHWA) for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation (WSDOT) as follows:

#### Rules

- A. The AGENCY may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the Project Funding Estimate (PFE) is \$25,000.00 or less including cost-to cure items. A True Cost Estimate shall not be used with this procedure.
- B. The AGENCY must make the property owner(s) aware that an appraisal has not been completed on the property for offers \$10,000 or less.
- C. The AGENCY must make the property owner(s) aware that an appraisal has not been completed on the property for offers over \$10,000 and up to \$25,000, and that an appraisal will be prepared if requested by the property owner(s).
- D. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

#### Procedures

- A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.
- B. The AOS is submitted to the Public Works Director for approval.
- C. The Public Works Director signs the AOS authorizing a first offer to the property owner(s).

TOWN OF TWISP

  
\_\_\_\_\_  
Mayor

6-25-2019  
Date

WASHINGTON DEPT. OF TRANSPORTATION

Approved By:

\_\_\_\_\_  
Local Programs Right of Way Manager Date



# *Town of Twisp*

## *Public Works*

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### ***Administrative Settlement Policy***

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Administrative Settlements may be required, in addition to just Compensation in order to acquire needed right-of-way. Administrative Settlements can help mitigate or eliminate costly condemnation litigation and project construction schedule delays. Any administrative settlement which exceeds the fair market value must be documented, thoroughly justified, and the rationale set forth in writing in order to be eligible for federal aid funds. The extent of written explanation is a matter of judgement and should be consistent with the circumstances and the amount of money involved. The following designated Town Officials have been granted the authority to approve an administrative settlement when it's determined that such action is in the public interest. Total amount of the Just Compensation plus any Administrative Settlement must not exceed the signing authority granted to each of the Town Officials identified below.

1. Public Works Director-signing authority, \$35,000
  - A counter-offer of Just Compensation plus an Administrative Settlement not to exceed \$35,000.
2. Town Council
  - A counter-offer of Just Compensation plus an Administrative Settlement greater than \$35,000 of the Just Compensation value when approval is recommended by the designated Town Officials.

The signatory authority limits identified above apply to establishment of Just Compensation as well. The appropriate counter signature will be provided when signing an Administrative Offer Summary that exceeds the Program Administrator's (Public Works Director) signatory authority limits.