

NCDOT RIGHT OF WAY CERTIFICATION ON LOCALLY ADMINISTERED PROJECTS

This guide is to assist Municipalities in obtaining right of way certification from NCDOT on Locally Administered projects. The following is not a comprehensive list of requirements, but a general outline of items to be considered when right of way certification is needed. Resources to provide you assistance and information can be found at the following websites:

http://www.fhwa.dot.gov/real_estate/index.cfm

http://www.fhwa.dot.gov/real_estate/uniform_act/

http://www.fhwa.dot.gov/real_estate/right-of-way/

http://www.fhwa.dot.gov/real_estate/local_public_agencies/

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

http://www.fhwa.dot.gov/real_estate/uniform_act/acquisition/

http://www.fhwa.dot.gov/real_estate/

Right of Way Certification is the assurance from NCDOT to FHWA that Federal policies/regulations have been adhered to regarding the right of way acquisition phase of the project. The Certification is typically submitted by the NCDOT Division Right of Way Agent for the county where the project is located, after receiving a request from the Municipality accompanied by needed documentation.

Projects are examined to determine whether new easements/property were acquired and/or whether the project is to be constructed within existing public right of way/property owned by the Municipality prior to the project.

Right of Way Support:

<https://connect.ncdot.gov/business/ROW/Pages/ROW-Support.aspx>

Obtaining Right of Way Certification – Step 1 : Documenting Existing Right of Ways

If a project can be constructed within existing public right of way, the Municipality should provide the following to the Division Right of Way Agent:

Provide plan sheets showing the improvements such as driveways etc., along with the existing public right of way limits. Therefore **existing public right of way should be verified prior to construction plan development**. Existing public right of way limits should not be assumed to be a certain width. County Tax maps and Geographic Information System (GIS) are not necessarily an accurate indicator of existing public right of way limits.

The NCDOT recognizes four basic ways of proving existing right of way limits:

- (1) Recorded right of way/deed/easement
- (2) Recognition of right of way limits within a recorded deed/plat map of the subject property
The deed/map is specific to each property. Note: a right of way width on one property can't be assumed by virtue of a deed/map of another property owner.
- (3) A survey which locates the property corners of the subject property – preferably by a Registered Licensed Surveyor (RLS)
- (4) Existing maintenance limits – if this is used on non-NCDOT roads, the Municipality should furnish a letter on their letterhead, stating the r/w width claimed by them.

On NCDOT roads, the NCDOT may be able to provide information to assist the Municipality in determining the existing right of way limits. However, it is ultimately the responsibility of the Municipality to locate and plot to the existing public right of way along its proposed project.

The project may also utilize property owned by the Municipality prior to the project concept; however this property may not qualify for reimbursement or credits. Copies of recorded deeds or dates of deeds will be needed along with an explanation of purchase and process utilized.

Obtaining Right of Way Certification – Step 2: Acquiring New Right of Way

Acquisition resources listed at:

http://www.fhwa.dot.gov/real_estate/publications/your_rights/, specifically http://www.fhwa.dot.gov/real_estate/49cfr24fr.pdf should be followed.

Highlights of this section are:

1. The property owner must be informed that he/she is entitled to receive fair market value for the portion of their property needed for the project.
2. The property owner shall also be informed of his/her right to an appraisal regardless if the valuation problem is not complicated and the estimate is no more than \$10,000. If the value of the property needed is estimated to be \$10,000 or less the Municipality may determine the value based on a review of available data. Evidence to support the estimated value should be submitted to the NCDOT Division Right of Way Agent prior to making an offer. Values that exceed \$10,000 and condemnation claims must be appraised by a DOT approved appraiser. DOT will review all appraisals and charge time to the assigned WBS element; therefore authorized funding must be set up.
3. After being notified in accordance with (1) and (2) above, an owner may donate the property that is needed for the project. **(PROPERTY OWNER DONATION WAIVER RELEASE FORM WILL BE NEEDED)**
4. If an appraisal is required, the owner shall be given the opportunity to accompany the appraiser during the inspection of the property. **(APPRAISALS NEEDED FOR VALUES THAT EXCEED \$10,000.00 AND/OR CONDEMNATION CLAIMS)**
5. The appraisal must be reviewed and approved by the NCDOT Area Appraisal Office to assure that it meets applicable appraisal requirements. The NCDOT Appraisal Office will determine the just compensation on all appraisals prior to the Municipality making any offers.
6. The owner shall be given a written offer that reflects an amount not less than the approved just compensation. **(A REVISED OFFER WILL BE NEEDED IF THE JUST COMPENSATION CHANGES DUE TO A WAIVER VALUATION LATER BEING APPRAISED DUE TO CONDEMNATION OR AREA OF TAKE CHANGES THAT WARRANT A VALUE ADJUSTMENT)**

Obtaining Right of Way Certification – Step 3: Submission to Right of Way Office

Upon your request for r/w certification, the Municipality should forward plans sheets showing existing public right of way, and new easements/property needed for the project, copies of recorded easements, valuation evidence or copy of approved appraisal, copies of written offer communication; if a property owner utilizes a donation, evidence that the owner was informed of (1) and (2) (attached release form should be used); and uniform acknowledgement form. Notaries should be adjusted on an additional sheet if necessary per the North Carolina Notary Public requirements.

It is important that the Municipality contact NCDOT if there are questions regarding the right of way acquisition/certification process and policies to avoid misinterpretations.

**LOCAL PUBLIC AGENCY (LPA)/LOCAL GOVERNMENT AGENCY (LGA)/ METROPOLITIAN
PLANNING ORGANIZATION (MPO)
UNIFORM ACT ACKNOWLEDGEMENT FORM**

WBS Element: _____

TIP Project Number: _____

Name of Applicant: _____

Description/Location of Project: _____

Below is a list of properties acquired as a part of this project:

Owner Name Owner Paid (Yes/No) Amount Paid How Value Determined

Below is a list of condemned properties as part of this project:

Owner Name Was offer made (Yes/No) Offer Amount Was Property Appraised (Yes/No)

This is to certify that in connection with the above project, all of the above owners have been advised that:

1. At no expense to us, we may elect to have our property appraised by a qualified appraiser to determine the *fair market value* of the property needed for the project if the property is valued over \$10,000.00 or condemned.
2. All appraisals were reviewed and approved by NCDOT Area Appraisal Office.
3. All wavier valuation were reviewed and approved by an NCDOT Division Right of Way Agent
4. Based on said appraisal wavier valuation, they have been offered just compensation for all property needed as determined by NCDOT

Corporate Name

By: _____ Attest: _____

Corporate Seal

<p>(Official Seal)</p>	North Carolina, _____ County
	I, _____, a Notary Public for _____ County, North Carolina, certify that
	_____ personally came before me this day and acknowledged that he/she is the CLERK of the CITY OF _____, and that by authority duly given, the foregoing instrument was signed in its name by its MAYOR of the CITY OF _____, sealed with its corporate seal, and attested by _____ as its CITY CLERK.
	Witness my hand and official seal this the _____ day of _____, 20 ____.
	_____ Notary Public
	My commission expires: _____