CITY OF STANWOOD
Stanwood, Washington

RESOLUTION 2016-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON APPROVING AND ADOPTING RIGHT OF WAY PROCEDURES FOR THE CITY OF STANWOOD FOR RIGHT OF WAY ACQUISITIONS RELATED TO FEDERAL AID PROJECTS AND/OR FALLING WITHIN THE LOCAL AGENCY RIGHT OF WAY PROGRAM REQUIREMENTS OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, the Washington State Department of Transportation maintains oversight of local agency (City) right of way acquisition programs when certain Federal or State monies are used in the project or state highways are at issue; and

WHEREAS, the City wishes to adopt its Right of Way Procedures, Waiver of Appraisal Procedure and Administrative Settlement Policies as the City's right of way acquisition program in those instances where the acquisitions in question fall within the Washington State Department of Transportation retained oversight over the City's right of way program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STANWOOD AS FOLLOWS:

Section 1. That the Right of Way Procedures consisting of four (4) pages attached hereto as Attachment 1, the Waiver of Appraisal Procedure consisting of one (1) page attached hereto as Attachment 2, and the Administrative Settlement Policies consisting of one (1) page attached hereto as Attachment 3 are approved and adopted as the Right of Way Acquisition Procedures of the City of Stanwood for right of way acquisitions where the Washington State Department retains oversight over the City's acquisition of right of way.

PASSED AND APPROVED by the City Council of the City of Stanwood this 11th day of August, 2016.

CITY OF STANWOOD

By_____
Leonard Kelley, Mayor

ATTEST:

By_____
Jan Berg, City Clerk

Right of Way Procedures

The City of Stanwood, hereinafter referred to as "AGENCY", , desiring to acquire 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 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 positions, for which the AGENCY has qualified staff to perform the specific right-of-way function(s). Attached is a listing of each individual on the AGENCY staff who currently fill those positions below, and a brief summary of their qualifications pertaining to the specific right-of- way function(s) for which they are listed. This list 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 R/W consultants;
        - use of consultant contract approved by WSDOT (under construction)
        - management of ROW contracts
        - management of R/W 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;
      - 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.

Public Works Director

SUBJECT TO REQUIREMENTS LISTED IN
RIGHT OF WAY PROCEDURES APPROVAL LETTER

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.

Qualified Consultant

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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;
- 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.

Qualified Consultant

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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 R/W 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.

Qualified Consultant

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v. RELOCATION:

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.

Qualified Consultant

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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 R/W.

Public Works Director

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.

Public Works Director, Kevin Hushagen

4/1/2016
Date

Washington State Department of Transportation

Approved By:

Local Programs Right of Way Manager

4/12/16
Date

WAIVER OF APPRAISAL PROCEDURE

The City of Stanwood, 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).

AGENCY

By: _____

APPROVED:

Dianna Nausley 4/12/16

Local Programs Right of Way Manager

City of Stanwood
10220 270th Street NW
Stanwood, Washington 98292
(360) 629-2181

ADMINISTRATIVE SETTLEMENT POLICIES

Administrative settlements that exceed Fair Market Value (FMV) as established through the appraisal process, and in accordance with LAG Manual section 25.09, Administrative Settlement guidelines, shall be documented and thoroughly justified, and shall be set forth in writing. Administrative Settlements shall be subject to the following levels of approval authority: the Acquisition Consultant shall be authorized to offer up to $1,000 above the FMV or up to 10% above the FMV, not to exceed $1,000. The Public Works Director of the City of Stanwood shall have the authority to make administrative settlements of up to $5,000 above FMV or up to 25% above the FMV, whichever is less. Administrative settlements in excess of the foregoing shall require the approval of the the City of Stanwood Mayor.

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