

Santacruz Associates, Ltd.

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LAND ACQUISITION PROCESS

A local public agency (LPA) must follow the IDOT Division of Highways *Land Acquisition Policies and Procedures Manual* must be followed in acquiring right-of-way for a locally sponsored project involving Federal funds or for certain State projects, to ensure full compliance with Title II and Title III of the “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970”.

The Act establishes policies in regard to expeditious acquisition by negotiation, independent appraisal of real property and written determination of just compensation in order to encourage the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners, and to promote public confidence in federal and state land acquisition practices.

The process we will follow with your local agency job in processing your files is in accordance with IDOT policies and procedures.

1. We prepare the introduction letter (and donation letter, if applicable). We can prepare the letter(s) on your supplied stationary or, in the alternative, we can transmit the letters to you via fax or email so that you can prepare and send the letters to each affected property owner. The letters announce the start of the land acquisition process, introduce our firm as your agent to facilitate the acquisition and provide the property owner with an LPA contact in the event that they have questions about the process.
2. We prepare the offer package for delivery in person or by mail. The offer package will include your offer, a copy of the plat of highway showing the areas to be acquired from their property, a legal description of the areas to be acquired, and, if applicable, certain brochures provided by IDOT concerning the right-of-way process.
3. We prepare the conveyance deed (i.e., Warranty Deed, Quit Claim Deed, Agreement for Temporary Construction Easement, Permanent Easement, Dedication or Temporary Use Permit) as the case may be using IDOT’s approved templates and forward it to the property owner for execution.

We also send two receipts for the conveyance documents. As payment is not exchanged for the deed, the receipt provides the property owner of payment in that it states that you will not have possession of the property until they receive payment. This document also requires them to provide their SS# or FEIN. We also send a standard affidavit of title. NOTE: All of our forms are IDOT approved templates.

Upon review of the title commitment, we will send any documents necessary to clear title exceptions in accordance with the guidelines established by you and IDOT. The documents may include any of the following: Partial Release of Mortgage; Lender’s Consent to Easement; Tenant’s Release of Lease; Tenant’s Consent to Easement; Quit Claim Deed.

In addition, if it is an entity, pursuant to 50 ILCS 105/3.1 (copy attached), we will send an Affidavit of Disclosure of Ownership so that compliance with the statute is met.

Depending on the type of entity in ownership of the parcel, we also prepare any additional documentation required by IDOT. If a land trust, we will require that the land trustee provide such an affidavit disclosing the beneficiaries. We also require them to provide us with a copy of the trust and affidavit attesting to it being a true and accurate copy. If a corporation, we will require a corporate resolution indicating the board's approval of the transaction. If a partnership or an LLC, we will request documentation to assure that the party signing the conveyance documents is authorized to do so. If the property is held in an estate trust arrangement, we will obtain a copy of the trust agreement to assure that the person signing the conveyance documents has been appointed trustee and has the necessary powers to make a conveyance of the trust property..

4. Upon receipt of the conveyance deed, we send it to the title company requesting that they record the document. If an easement, we ask that they perform a later date to confirm the owner is the same and no new encumbrances have shown up that we need to be aware of, such as liens or tax delinquencies. If a fee simple, we ask them to perform a later date for the purpose of issuing policy. We provide them with original Partial Releases of Mortgage for recording and copies of any other documents we have obtained for the purpose of having them issue a clean policy.
5. At the same time, we will also request from you payment for the property owner. IDOT requires that all of the property owners receive their payments before IDOT will complete the certification. Accordingly, we will need a copy of the check to be provided to us. At this point, our request is only intended for you to ready the check but not to mail the check. We will notify you to send the check after we complete the processing of the conveyance documents.
6. Upon confirmation that the conveyance document has been recorded (we get a typically receive a fax or email from the title company indicating the document recording number and date of recording), we prepare the Local Public Agency (LPA) Attorney Certification Letter and provide a copy to your attorney by facsimile or email. This letter will need to be prepared on the letterhead for your attorney. A sample is attached hereto.

At this time, we will provide your attorney with copies of the conveyance deed(s), any documents obtained to clear title, and the title commitment we relied upon to clear title. We will also prepare a schedule of title exceptions with notes indicating how we cleared the exception, if necessary. Your attorney will need to review this package as the Attorney Certification Letter is the assurance of the LPA to IDOT that the acquisition was completed in compliance with Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and IDOT's Land Acquisition Policies and Procedures. The Attorney Certification Letter will need to be prepared for each parcel and turned into IDOT as part of our package for the ROW certification. This package will include a Parcel Compliance Checklist for each parcel and one Project Compliance Checklist for the project which needs to be signed by the LPA. (Sample copies are attached hereto).

7. When we complete the processing of these files and prepare to submit them to IDOT for certification, we will provide you with a complete copy of our file including the above mentioned items, our contact logs, the conveyance documents, correspondence, etc.

I hope that this explains the process we will follow in order to streamline your administrative responsibilities in this matter.

CHAPTER 50. LOCAL GOVERNMENT
OFFICERS AND EMPLOYEES
PUBLIC OFFICER PROHIBITED ACTIVITIES ACT
50 ILCS 105/3.1

50 ILCS 105/3.1. [Real property; disclosure required]

Sec. 3.1. Before any contract relating to the ownership or use of real property is entered into by and between the State or any local governmental unit or any agency of either the identity of every owner and beneficiary having any interest, real or personal, in such property, and every shareholder entitled to receive more than 7.5% of the total distributable income of any corporation having any interest, real or personal, in such property must be disclosed. The disclosure shall be in writing and shall be subscribed by an owner, authorized trustee, corporate official or managing agent under oath. However, if stock in a corporation is publicly traded and there is no readily known individual having greater than a 7.5% interest, then a statement to that effect, subscribed to under oath by an officer of the corporation or its managing agent, shall fulfill the disclosure statement requirement of this Section. As a condition of contracts entered into on or after the effective date of this amendatory Act of 1995, the beneficiaries of a lease shall furnish the trustee of a trust subject to disclosure under this Section with a binding non-revocable letter of direction authorizing the trustee to provide the State with an up-to-date disclosure whenever requested by the State. The letter of direction shall be binding on beneficiaries' heirs, successors, and assigns during the term of the contract. This Section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of real property thereby.

*SAMPLE ATTORNEY CERTIFICATION LETTER
LOCAL PUBLIC AGENCY
(prepare one letter for each parcel)*

Route:
Section:
County:
Job No.:
Parcel:
LPA:

John P. Kos, P.E.
District Engineer
Illinois Department of Transportation (IDOT)
201 W. Center Court
Schaumburg, IL 60196

Attn: Sheila Derka

Dear Ms. Derka:

I am writing as the municipal attorney representing the _____ (“LPA”). There are ___ parcels of additional right of way that are required to construct the referenced transportation improvement.

I have reviewed the current title insurance commitment for Parcel ____ to be acquired and present my findings as follows:

Owner: _____

1. This parcel is being acquired in the name of the LPA.
2. [Title Company] has provided a title commitment. The following exceptions appearing in the title commitment were cleared or waived by for the following reasons:

See attached

3. The interest in the property acquired by LPA was conveyed by a Warranty Deed / Special Warranty Deed / Dedication / Temporary Construction Easement / Permanent Easement / Grant for Public Roadway / Temporary Use Permit.

4. All conveyance and related documents were recorded (or submitted for recording) on M/D/Y with the County Recorder’s Office filed as document number(s): _____.

5. Permanent Acquisitions Only: The guarantee title insurance policy number issued for this parcel is: _____. A copy is attached hereto. OR The guarantee title insurance policy has been ordered for this parcel from (Order No.: _____) and a copy will be forwarded to you as soon as it is obtained.

*SAMPLE ATTORNEY CERTIFICATION LETTER (cont.)
LOCAL PUBLIC AGENCY
(prepare one letter for each parcel)*

As LPA attorney, I certify that all additional right of way for the improvement has been secured, paid for, and vacated, and that the interests acquired in such right of way are adequate for the transportation facility to be constructed thereon. Our fee negotiator has assured us that the LPA has complied with Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the IDOT Division of Highways Land Acquisition Policies and Procedures, as applicable. I am satisfied that all unpermitted exceptions to title to the foregoing parcel have been cleared and that with the recordation of the partial releases, deeds, agreements for temporary easements, and corporate resolutions with respect thereto, the LPA has acquired good title to the parcels referenced herein.

Please contact me if you require any additional information.

Very truly yours,

PROJECT COMPLIANCE CHECKLIST - LOCAL AGENCY

FOR RIGHT OF WAY PROJECT ACTIVITIES
TO BE PERFORMED IN WHOLE OR IN PART
BY LOCAL AGENCIES

STATE: DISTRICT ONE

John P. Kos
District Engineer
Illinois Department of Transportation
201 Center Court
Schaumburg, IL 60196-1096

Sheila Derka
Land Acquisition Representative

Nancy Magnus
Local Roads and Streets Representative

PROJECT DATA:

Route: _____
County: _____
Section: _____
LA Section: _____
Project No.: _____
Job No.: _____

LOCAL AGENCY:

Local Agency Address:

Local Agency Representative:

Project Agreement Covering Right of Way Acquisition Approved by STATE _____
(Attach copy of executed agreement to this form) Date

_____ All right of way must be acquired in the name of the STATE on all STATE HIGHWAY
SYSTEM Joint Improvement Projects

_____ All right of way must be acquired in the name of the LPA on other local road or street
improvement projects

PROJECT FUNDING:

Federal Aid in Right of Way - Date FHWA Authorization _____

Federal Aid in Construction _____

Design Location Approved by FHWA: _____

Project Relocation Plan Prepared: _____ By State Date Approved: By State _____

_____ By L.PA

On all LOCAL AGENCY projects in which there is Federal funding in any portion of the project, all Title 11 Relocation Assistance and Payments provisions, including preparation of the Relocation Plan, and all Title III Acquisition Provisions, shall be administered in accordance with the STATE'S Relocation Assistance and Payments Policies and Procedures (Chapter 6 of Land Acquisition Manual) and with the STATE'S Appraisal and Negotiations Policies and Procedures (Chapter 2 & 3 of the Land Acquisition Manual).

If the Relocation Assistance and Payments Program is to be administered by any agency other than the STATE, there must be a separate contractual agreement between the STATE and the Agency performing such services.

Separate Contractual Agreement Approved by STATE

_____ Date

On all STATE HIGHWAY projects, and on all LOCAL AGENCY Federally funded projects, approval by STATE of LOCAL AGENCY Appraisers, Reviewers and Negotiators is mandatory.

Appraisals to be by STATE Staff Appraisers **NO**

Appraisal Reviews and Approvals to be by STATE Staff Reviewers **NO**

Negotiations by STATE Staff Negotiators **NO**

Otherwise, if Appraisals, Appraisal Reviews and Approvals, or Negotiations to be by LOCAL AGENCY staff or fee personnel, list below as applicable.

Local Agency Appraiser(s)

Date Approved by STATE

(1)

Local Agency Appraisal Reviewer(s)

Date Approved by STATE

(1)

Local Agency Negotiator(s)

Date Approved by STATE

(1) **J. Steve Santacruz**

444 Skokie Blvd. - Suite 310, Wilmette, IL 60091

Commitments for Title Insurance Policies Required on all Projects provided by:

Date Negotiations Initiated on Project: _____

LOCAL AGENCY CERTIFICATION - The following certification is required and must be made by a responsible officer of the LOCAL AGENCY relating to the right of way required for their project:

TO: John P. Kos, P.E
District Engineer

Date

I hereby certify to the State of Illinois, Department of Transportation, that all needed additional right of way for the above referenced project:

- (1) has been acquired in compliance with the provisions of Title II* and Title III** of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), as amended;
- (2) has been secured, paid for, and vacated; and
- (3) the interest acquired in such right of way is adequate for the highway facilities to be constructed thereon.

(*Indicate if Relocation Assistance and Payments not required _____.)

(**Title III not applicable to Temporary Use Permits unless acquired in connection with other fee or easement parcels from the same owner.)

I further certify that the additional right of way acquired for this project consisted of:

_____ Permanent Easement or Fee acquisition parcels

_____ Temporary Easement parcels

_____ Temporary Use Permit parcels

at a total project acquisition cost of \$ _____ .00

By: _____
Signature - Local Agency Officer

Title

Compliance Review of LOCAL AGENCY Activities and Verification of Above Certification:

Date _____ Comments _____

Certification Accepted by: _____
Signature - District Engineer Date Accepted

PARCEL COMPLIANCE CHECKLIST - LOCAL AGENCY ACQUISITIONS

LOCAL AGENCY ACQUISITION SERVICES ON
STATE HIGHWAY PROJECTS

LOCAL AGENCY: _____

(This form must also be used for Local Agency projects in which there is Federal Participation in any portion of the Project Costs).
(Original copy of this form to become attached to each individual parcel file.)

Job No.: _____

Parcel No.: _____

Owner: _____

PRE-NEGOTIATION CHECKLIST:

1. Appraiser (name & address): _____

2. Property Owner Offered Opportunity to Accompany Appraiser: (dates) _____

3. Appraisal(s) reviewed and approved by: _____

Approved Amount \$ _____ .00
Reviewers Certification completed and attached to approved appraisal. **YES**

(Above requirements not applicable if owner during pre-negotiation contact voluntarily elects to make a gift or donation of needed parcel after being fully informed of his rights to an appraisal and an offer of the full amount of the approved appraisal.)

4. Improvement Disposition & Rental Values Established. _____

Owner Retention Public Sale Rental By: _____

\$ _____ \$ _____ \$ _____ None Acquired: _____ **X** _____

5. If Relocation Assistance and Payments required, initiate RELOCATION ASSISTANCE PARCEL CHECKLIST, PART C and compute supplemental housing payment prior to negotiations.

Relocation Not Required: _____ **X** _____

NEGOTIATIONS CHECKLIST:

1. Negotiations Initiated by: **J. Steve Santacruz**

2. Owner offered full amount of approved appraisal and provided written summary of acquisition and offer to purchase.
(Use Exhibit 3.01-3A of Land Acquisition Exhibits.) **YES**

(Owner may make gift or donation of property, but only after being fully advised of his rights to an appraisal and offer of full amount of approved appraisal.)

ACQUISITION CHECKLIST:

- 1. Acquisition by negotiated settlement. (enter date of conveyance) _____
Amount of Settlement: _____
- 2. All conveyance documents properly executed and acknowledged. **YES**
- 3. Documentation to justify settlement in excess of approved appraisal. _____
- 4. Acquisition payment delivered to property owner or escrow agent. **YES**
- 5. All conveyance documents recorded. **YES**
- 6. Tax exemption notice filed (See Exhibit 4.04-2A). **YES**

(On all parcels acquired for a STATE HIGHWAY by negotiated settlement, whether acquired in the name of the STATE or any COUNTY, title approval is required by STATE when consideration is \$10,000, or less, and by the ATTORNEY GENERAL when consideration exceeds \$10,000, prior to the awarding of any contract to cover construction of such project. For title examination and closing requirements, see Paragraphs 4.10 through 4.10-5 of the LAND ACQUISITION MANUAL. When submitting the required title data to the District Engineer, LOCAL AGENCY should also submit the required "Warrant Request----", Exhibit 7.02-1A, even though payment for the acquired parcel was made by the LOCAL AGENCY.)

- 7. Title Insurance Policy. Ordered Date _____. Received Date _____.
(Required on all parcels acquired for STATE HIGHWAY whether in the name of STATE or any COUNTY.)
- 8. Title Policy reviewed for deficiencies by: **J. Steve Santacruz &** _____
 - a) List deficiencies, if any, and follow up review findings on required corrective action.

SEE ATTACHED

- 9. 30 Day Notice of Specific Date for Vacating Property. _____
 - a) Date by which property to be vacated. _____
 - b) Actual date of vacation and possession of property. _____
- 10. Compliance Review of LOCAL AGENCY parcel acquisition: _____

Comments: _____

_____ By: _____