MONTANA
Department of Transportation

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Memorandum

To: Distribution

From: Jason Gilliam, Right of Way Bureau Chief

Date: July 20, 2023

Subject: Procedure for Sidewalk & Approach Construction Agreement

When the construction/reconstruction of curb ramps, sidewalks, and/or approaches is part of an MDT project that does not have a right of way phase, the PE Project Manager will notify the District Right of Way Supervisor. District Right of Way staff will identify the impacted landowners/addressees where the sidewalk facility is to be constructed and will be responsible to initiate discussions and notification of the upcoming project with the landowners. These improvements must be located within the existing footprint of the existing ramps, sidewalks, and/or approaches.

Prior to this work being performed, District Right of Way staff will distribute a Sidewalk & Approach Construction Agreement to all impacted landowners to request signatures consenting to the proposed work. This activity should be performed 6 to 12 months prior to the project ready date. District Right of Way staff will charge their time spent acquiring these agreements to the applicable project and PE phase along with EPS activity code 809 (Prepare preliminary R/W Reports & Estimates). The District Right of Way staff will be responsible for tracking the status of this activity.

Once signatures are fully obtained, the District Right of Way Supervisor will close out the EPS 809 activity. The District Right of Way Supervisor will send an email with a hyperlink to the sidewalk agreement folder to the Right of Way Records Management person. Right of Way Records Management staff will upload the agreements into Project Content Management System (PCMS). The naming convention for these agreements will follow PCMS document naming standards, document class will be SAC (Sidewalk & Approach Construction Agreement).

If the improvements are outside the footprint of the existing curbs, sidewalks, and/or approaches, District Right of Way Design staff will need to request a Right of Way phase to be authorized for funding. Impacted property outside the existing footprint must be surveyed and acquired through the Right of Way acquisition process. If any impacted property is outside the existing footprint, all properties will be handled through the Right of Way acquisition process. If all improvements are within the entire existing footprint, a Sidewalk & Approach Construction Agreement can be utilized. Projects should utilize either the Right of Way acquisition process or the Sidewalk & Approach Construction Agreement, but not both methods in tandem.

District Right of Way Supervisors will notify the Acquisition Manager, Project Manager, and Preconstruction Engineer if a landowner is not willing to sign the Sidewalk & Approach Construction Agreement to determine the next course of action. The Acquisition Manager will then notify MDT Legal of the situation and discuss the appropriate course of action. If MDT Legal is unsuccessful in obtaining landowner consent, the option to design around that segment or to request a survey will be determined on a case-by-case basis. If a certificate of survey verifies MDT ownership within the existing footprint, MDT may decide to move forward with the improvements without signature. The District Right of Way staff will be responsible for documenting

the timeline of correspondence and communication with the landowner as well as any decisions made by Legal. This history will be provided to the District Right of Way Designer to upload as a PDF into PCMS. The naming convention should include Sidewalk Agreement History, UPN number, street address and last name.

When a landowner expresses concern regarding MDT impeding access to the impacted property (ingress/egress) or potential liability, the District Right of Way Supervisor will contact the Acquisition Manager who will coordinate with MDT Legal. MDT Legal will determine if an additional clause to the agreement is necessary and will provide the appropriate language to insert into the agreement.

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