

ABUTTER - One whose property abuts or joins another's at a border or boundary. Any rights or obligations associated with that status would vary depending on the type of easements or party walls etc. involved.

APPURTENANCE –A right, privilege, or improvement, such as an easement, that is considered incident to the principal property for purposes such as passage of title, conveyance or inheritance.

ASSIGNEE (ASSIGNS) – A person to whom a right or property interest is transferred. The word often is used in contracts, deeds, and wills.

CODE OF FEDERAL REGULATIONS (CFR) - A codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. It can be accessed at

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>.

CONDEMNATION - The act or process of exercising the right of eminent domain.

CONDITIONS (OR TERMS AND CONDITIONS) - A premise upon which the fulfillment of an agreement depends. As used in connection with federal land transfers associated with the U.S. Forest Service, it is intended to refer to provisions to run with the land and be included in the deed (as opposed to stipulations).

CONTROLLING AGENCY – A Federal Agency having control or jurisdiction of a parcel owned by the United States.

CONVEYING INSTRUMENT – A generic term for any written document which transfers (conveys) real property or real property interests from one party to another.

DEED/RECORDED DEED – A written instrument by which one party conveys an interest in real property to another party.

EASEMENT - An interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property. Easements can be permanent or temporary (i.e., limited to a stated period of time). The term may be used to describe either the right itself or the document conferring the right. Examples are: permanent easement for utilities, permanent easement for perpetual maintenance of drainage structures, and temporary easement to allow reconstruction of a driveway during construction.

ENHANCEMENT – Generally used to mean an increase in the market value of property that is the result of an improvement.

ENCUMBRANCES – A claim against or interest in real property that affects or limits the title to or value of property, such as a mortgage or an easement.

FEDERAL AID POLICY GUIDE (FAPG) – An official Federal Highway Administration (FHWA) directive that contains the current policies, regulations, and nonregulatory procedural guidance information related to the FHWA's Federal-aid Highway Program, and available at

<http://www.fhwa.dot.gov/legsregs/directives/fapgtoc.htm>

FEDERAL AID SYSTEM – The National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways (known as the “Interstate System”). Federal-aid highways means highways on the Federal-aid highway systems and all other public roads not classified as local roads or rural minor collectors. (See 23 CFR 470.103)

FEDERAL LANDS – Land owned by the United States, and under the control or jurisdiction of a Federal Agency. This includes national parks, national wildlife refuges,

military reservations, Federal prisons, and public-domain land are all examples of lands owned or administered by the Government of the United States.

FEDERAL LAND TRANSFER - A transfer of lands or interests in lands from the U.S. government to a state department of transportation or its nominee pursuant to 23 U.S.C. 107(d) or 317, for highway purposes.

FEE SIMPLE – Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance. Absolute ownership of real property with unrestricted rights of disposition.

FUNCTIONAL REPLACEMENT – The replacement of real property, either lands or facilities or both, acquired as a result of a transportation-related project, with lands or facilities or both land and facilities that will provide equivalent utility. (See 23 CFR 710.509)

GRANTEE - Party to whom property is transferred by deed (for example, a buyer).

GRANTOR - Party who transfers property by deed (for example, a seller).

LEGAL DESCRIPTION - A description of land that identifies the real estate according to a system established or approved by law; an exact description that enables the real estate to be located and identified.

LEGAL SUFFICIENCY REVIEW – Legal sufficiency reviews of deeds are conducted by FHWA attorneys and assess the document from the perspective of legal standards. These reviews focus on compliance with applicable federal laws, regulations, Executive Orders, or Agency guidance and consistency with FHWA policies. The sufficiency of a deed under state law is assessed by a state attorney admitted to practice in the applicable jurisdiction.

LETTER OF CONSENT – A written document from the Controlling Agency granting a state department of transportation or its nominee a right of entry to the property on which a project is to be constructed, and consenting to the federal land transfer. This letter of consent may contain conditions and/or stipulations.

LICENSE – A temporary right to use the property of another, generally revocable at will by the licensor.

MATERIAL SITE – In connection with federal land transfers, part of the lands or interests in lands owned by the United States which is reasonably necessary as a source of materials for the construction or maintenance of federal-aid or federal-aid eligible highway adjacent to such land.

MEMORANDUM OF AGREEMENT (MOA) – A document written between parties to cooperatively work together on an agreed upon project or meet an agreed upon objective. The purpose is to have a written understanding of the agreement between parties. The MOA can also be a legal document that is binding and hold the parties responsible to their commitment.

MEMORANDUM OF UNDERSTANDING (MOU) - A legal document describing a [bilateral](#) or [multilateral agreement](#) between parties. It expresses a convergence of will between the parties, indicating an intended common line of action and may not imply a legal commitment.

METES AND BOUNDS - A system or of describing [real estate](#) using natural land features, such as trees and streams, as well as neighboring land owners, along with distances to describe plots of land. In writing metes and bounds descriptions, it is

suggested that consideration be given to references such as "Writing Legal Descriptions In Conjunction with Survey Boundary Control" by Gurdon H. Wattles.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) – The National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et seq.] was signed into law on January 1, 1970. NEPA establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and it provides a process for implementing these goals within Federal agencies. NEPA also establishes the Council on Environmental Quality (CEQ).

NATIONAL HIGHWAY SYSTEM - The National Highway System consists of the highway routes and connections to transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled “Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals” and dated May 24, 1996. The system shall (A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; (B) meet national defense requirements; and (C) serve interstate and interregional travel. The National Highway System is further described in 23 U.S.C. 103(b).

NOMINEE – A person or entity requested or named to act for another, such as an agent or trustee. As used in this manual, the nominee may be county, city, town, or other public authority to acquire the property subject to the federal land transfer in lieu of the State DOT.

PERMIT – A written license, usually granted by a party having authority, such as a governmental agency.

PROJECT DEVELOPMENT GUIDE (PDG) (add hyperlink) From the Office of Real Estate Services, the PDG contains a practical approach to developing a right-of-way project. It leaves the requirements needed for Federal-aid projects to the regulatory material found elsewhere. In the PDG you will find plain talk and common sense ways to deal with developing a right-of-way project in addition to mini-case studies to demonstrate how others have handled a variety of right-of-way problems. It can be accessed at <http://www.fhwa.dot.gov/realestate/pdg.htm>

REVERSION –An interest held by a prior owner in property given to another, which, upon the happening of some future event, will return to that prior owner. One who holds property subject to a reversion interest held by another is under certain obligations as to the use of that property. As used in connection with property dispositions pursuant to 23 CFR 710.409, it means generally that the interest granted will revert to the grantor if certain requirements aren’t met or if use is no longer necessary.

RIGHT OF ENTRY – A legal right to take possession of land in a peaceable manner, usually for a specific purpose.

RIGHT OF WAY - Real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

STIPULATIONS - Generally, a restriction that is insisted upon as a condition for an agreement. As used in connection with federal land transfers involving U.S. Forest Service, it refers to requirements imposed on the State DOT or its nominee that do not run with the land and are not included in the deed.

TITLE – Ownership of real property which stands against the right of anyone else to claim the property. In real property, title is evidenced by a deed, judgment of distribution from an estate or other appropriate document recorded in the public records of the county. Title to federal property rests with the United States of America, though care and control for purposes of operation, maintenance, etc. may rest with a particular Agency (referred to in this Manual as “Controlling Agency”.)

UNITED STATES CODE (USC) - The codification by subject matter of the general and permanent laws of the United States. It is divided by broad subjects into 50 titles and published by the Office of the Law Revision Counsel of the U.S. House of Representatives. It can be accessed at <http://www.access.gpo.gov/uscode/index.html>.