

## CHAPTER 4

### RIGHT OF WAY DESIGN FUNCTION IN RELATION TO THE RIGHT OF WAY DIVISION

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4.01 PROGRAM AUTHORITY

Whether Federal aid is authorized or right of way costs are to be paid from State funds only, an "Authority for Expenditure" -AFE - (See [Attachment C](#)) is prepared by the Roadway Design Division for the approval of the Roadway Design Engineer. All copies are forwarded to the Right of Way Division for the assignment of a right of way AFE number for accounting purposes and for the addition of a right of way cost estimate. After the approval of the estimates by the Right of Way Manager all copies are forwarded to the Deputy Director-Engineering for approval if the ROW costs are estimated to exceed \$100,000 and distribution to Controller, Roadway Design, and Right of Way Divisions.

The AFE gives the source of the funds to finance the cost of right of way, noting whether State, Federal, County, or City funds will be used.

4.02 GENERAL OBJECTIVES

The general objectives of the Right of Way Design Section are to provide plans, plats, and descriptions for the use of all of those employed by the Department of Roads in the acquisition of right of way for highway purposes.

Ownership data, land line and property line ties are assembled and added to construction plans. In liaison with the Roadway Design Division and the field district engineers, right of way requirements are studied and the limits of tracts to be acquired are established. Access control designations are checked to assure intended service.

The end product provides:

- a layout description of the property to be appraised,
- an exhibit for the appraisers and negotiators to show the owner,
- the ties and dimensions needed to compute areas and required by the survey party to stake the right of way limits,
- and the basis for plats used in condemnations and for writing descriptions of the individual tracts which are to be acquired by either condemnations or negotiation.

#### 4.03 OWNERSHIP DATA

In right of way design, careful consideration must be given to:

- the extent and limits of individual ownership so that proper access is provided;
- the effects of design on the remainders; and
- that the right of way lines are well adjusted to land and ownership lines.

Accordingly, upon receipt of the reports of the Title Research Agent, ownership data is recorded on plan sheets and electronic files are furnished the Roadway Design Division. In the development of right of way plans, ownership tracts are numbered consecutively beginning with tract number one at the beginning of the project. The ownership data provided on the plans for each tract includes:

- (1) tract number,
- (2) name of owner,
- (3) property ownership lines
- (4) description and area in acres or square feet of tract to be acquired, and
- (5) area of each remainder of partial takings.

#### 4.04 DETERMINATION OF RIGHT OF WAY LIMITS

Construction plans that have been substantially completed will be forwarded to the Right of Way Design Section for further processing toward the acquisition of right of way. These plans will carry the limits of construction for grading operations and also for special items such as culvert extensions, channel cleanouts, driveways, sidewalks, retaining walls, back slopes and fill slopes, removal of improvements, and so on.

Careful consideration must be given to the requirements in each situation whether title to the land is required or an easement or some other right is sufficient to provide for the work to be performed. In the establishment of the limits of right of way to be taken in fee, consideration shall be given not only to limits of construction but also to:

- minimum widths adopted by the Department,
- uniformity in widths but avoiding excessive requirements,
- the type of land being acquired, the owner's operation being affected,
- proximity of improvements, and
- the values of the improvement and property served by the improvement.

Temporary construction easements are appropriate to permit the removal and replacement of items such as private sidewalks, steps, and driveways. A temporary easement is adequate for gradual back-slopes in residential areas. To insure proper support for a fill section in the same areas, a permanent easement is advisable. In general, if future State maintenance may be required the easement needs to be permanent; however, if some degree of control is not necessary following construction, the easement may be for the construction operation only.

#### 4.05 ROADWAY DESIGN LIAISON

In order that roadway design may result in minimum damage to properties while maintaining adequate design standards and to avoid revision of plans at later stages of right of way acquisition close liaison is required between Roadway Design Division and the several steps of the right of way acquisition process.

In the preliminary stages of construction plan developments where location problems must first be solved, the right of way costs for the alternate locations are provided by Right of Way personnel.

At the plan in hand stage of plan development, depending upon the character and difficulty of the design problems as they may affect adjacent properties, a representative of the Right of Way Design Section will accompany the design group making the plan in hand inspection.

After Roadway Design has established geometrics, grades, driveways, and construction limits, Appraisal Plans are prepared by the Right of Way Design Section and forwarded to the Chief Appraiser. The Chief Appraiser makes a field inspection of the plans and a Right of Way Cost Estimate is made which is used by the Department for budgeting, preparation of the Authorization for Expenditure, and for requesting authorization from the Federal Highway Administration to appraise and acquire right of way when there is federal participation in the right of way. A written report is sent to the Right of Way Design Engineer on clarification of plans, the possibility of right of way cost savings through design modifications, and related problems which result from this field inspection.

Liaison through the Right of Way Design Engineer assures that all authorized revisions will be made to the construction and right of way plans.

Design problems and questions raised during appraisal and negotiations regarding plan provisions are referred for further handling to the Right of Way Design Engineer.

#### 4.06 ACCESS CONTROL

Access control is the regulation of access, through the limitation of public access rights to and from properties abutting the highway facility. It is the condition where the right of property owners use and enjoyment of access is controlled by the department, when the department has acquired private property, in the form of access rights, for public use by payment of just compensation.

Right of way plans should clearly show where access has previously been acquired by the department. Because access rights are a property right and transferred by deed, it is also necessary that all existing rights of access be noted on the plans with a statement of the location of the access and the specific access rights owned by the abutting owner.

It should be observed in this connection that there is a distinction between granting a point of access on a controlled access facility and providing a physical means of access by building a driveway. Points of access may be granted in negotiation with the owner, for future construction by the owner. If driveways are shown on the plans, they will be built as a part of construction.

Once the control of access has been acquired and the project constructed, additional access entrances to a property may be granted if the access location is consistent with the department's current policy. That policy is noted in Chapter 5.

#### 4.07 RIGHT OF WAY PLANS CONTENT

Right of way plans show the right of way lines, the width to be acquired, the proposed limits of slope, centerline and stationing with appropriate ties to intersecting property lines and changes

in right of way widths. The lines and areas of any additional easement areas, either temporary or permanent, that are required to accommodate land service, access, and temporary roads, drainage facilities, material storage areas, slope widenings, utilities, railroads, and for any other special uses, shall be clearly designated and shown.

Ownership data shall be shown as outlined under Section 4.03. All pertinent data affecting the cost of the right of way such as structures, land service or access roads, improvements, and fences shall be shown. Access control provisions are shown under Section 4.06.

#### 4.08 RIGHT OF WAY PLAN DISTRIBUTION

A set of completed Appraisal Plans is furnished by the Right of Way Design Section to be used by the Chief Appraiser in preparing the preliminary right of way cost estimate.

Two sets of Appraisal Plans are furnished to the Appraisal Section for use in appraising those projects not having Federal aid in the right of way acquisition.

The Negotiation Section is furnished three sets of Negotiation Plans by Right of Way Design prior to initiation of negotiations.

Additional sets of plans are available upon request.