## 2022 RC Training

ROW Oversight of LPA Projects



## ROW Design Oversight of LPA Projects

Dan Foreman - NDOT



Primary Objectives of the

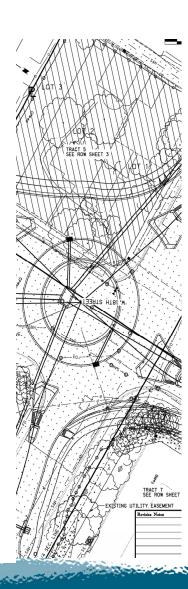
**ROW Design** 

That sufficient property rights necessary for the construction, operation and maintenance of the transportation facility are currently owned by or are to be acquired by the LPA (23 CFR 1.23a).



## Ensuring the ROW Designs of the project are being met

- Existing ROW has been accurately illustrated on the ROW plans.
- Property lines and ownerships based on land survey and title research are accurately illustrated on ROW plans.
- GIS is not always accurate.
- NDOT reviews of the ROW plans are typically performed at the 30% to 60% level so ROW plans must be accurate at this stage.
- Consult with your land surveyor and have them involved in the ROW design and legal descriptions.



# ROW Considerations During the Design Process



- That reasonable access is being provided for all properties.
  - Includes portions of properties that may be segregated by drainage or other such features
  - Loss of parking or other functionality of a property.
     (example: restaurant drive through lane, not replacing an existing drive, etc)
  - Some access changes may be built by the project contractor and others by the landowner through compensation.
- That the ROW designs account for the constructability of the project.
  - Equipment maneuvering.
  - Sidewalk construction.
  - Demolition.
  - Pipe Jacking.
  - High or steep cuts or fills.



- ROW Plans should be of sufficient scale to be easily readable.
- Use a large scale detail to illustrate a specific area when useful.
- Ensure plans have sufficient topography features surveyed and illustrated on the ROW Plans.
- Attach an air photo to the ROW plans or create two pages for each ROW plan sheet one with a photo and one without.
- Make sure ROW Plans are consistent with the ROW cost estimate.
- Be sure to update ROW plans and other documents whenever changes are made and see that all personnel working on project receive the updates.
- If an item can be left in place and worked around add a "Do Not Disturb" note to both the construction and ROW plans.
- Coordinate with your appraisal staff on what items will be addressed through the ROW Compensation and which ones will be part of the project construction.

## Recent Changes to the ROW Design Process

- The Nebraska Supreme Court passed new requirements for Condemnation filings.
- New requirements affect the formatting (margins, font, text size, page size, etc.) of condemnation plats and legal descriptions.
- Documents must be submitted in an electronic searchable format.
- New requirements apply to condemnation filings as of January 1, 2022.
- Contact your Agency Attorney for specific requirements

## ROW Design Information on NDOT's Webpage

dot.nebraska.gov Business Center > Design Consultant Information



#### Right of Way Design Documentation

- · Standard ROW Legal Description Statements Word | PDF
- Legal Description Word Template
- Condemnation Legal Description Template
- LPA Condemnation Plat and Description Resource Guide
- · LPA Condemnation Plat Border Autocad
- · Retrieving Existing ROW Archived Plans from OnBase
- LPA Declaration As To Use Guide and Templates

## ROW Appraisal

Appraisal Oversight of LPA Projects



## NDOT Appraisal Oversight

#### **Completed for:**

- MAPA projects
- LCLC projects

#### <u>Includes:</u>

- Preliminary Estimate
- Appraisal
- Review Appraisal

## Preliminary Cost Estimate

- LPA provides the cost estimate
- NDOT provides oversight

## **Preliminary Cost Estimate**

- Acquisition Costs
- Damages
- Signs
- Relocation Costs

- Demolition Costs
- Condemnation Costs
- Incidental Costs
- Other Costs

## **Preliminary Cost Estimate**

Oversight review includes

- Making sure all acquisitions are included
- Making sure all damages are addressed
- Making sure values look reasonable

## Appraisal & Appraisal Review

- LPA provides the appraisals and reviews
  - Choose appraisers from the Approved Appraiser List
  - <a href="https://dot.nebraska.gov/business-center/row/appraisal/appraiser-list/">https://dot.nebraska.gov/business-center/row/appraisal/appraiser-list/</a>
  - Follow the NDOT Manual for bids
  - Report issues with appraisers
- NDOT provides oversight

## Appraisal & Appraisal Review

- No set format for appraisals
  - Need to follow NDOT Manual
  - Appraisers should not do Waivers
- Project Report can be used
  - Project construction information
  - Area & neighborhood analysis
  - Market analysis
  - Comparable sale sheets

## Oversight of the appraisals

- All tracts must be inspected
- Valid 'offer to accompany' made to land-owner
- Acquisitions and damages compensated for
- No non-compensable items included in compensation
- Appraisers getting their own estimates
- Damages/estimates do not exceed contributory value

## Oversight of the appraisals

#### Common problems

- Tenant interests missing
- Underground sprinklers
  - Owner gets to choose who works on their system
  - LPA can't contract to do the work
  - UGS in current ROW is an encroachment
- Identification of personal property
  - What PP is included in the appraisal
  - Coordinate with the owner & the relocation agent
- Sheds personal property or real property
- Damages to the remainder

## Oversight of the review appraisals

- Reviewer must personally inspect all tracts
- Reviewer ensures appraiser follows NDOT Manual
- Reviewer should work with appraiser to correct issues
- Reviewer can make changes

#### ROW **Appraisal Checklist**

Page 1 of 2

have been submitted by the LPA					
Local Public Agency (LPA):		LP	A Responsible Charge:		
State Project No.:		Pro	oject Name and Location:		
State Control No.: Form Completed By (Print Na	me):	For	rm Completed By (Signature): Date:		ν.
Tract:		Ow	mer:		
			nentation		
Subject Tract	Y	N	Comparable Sales	Y	N
3-year sale analysis of subject			Attempt made to verify sale with principal		
Highest & best use     Present use	H	-	9. Date of sale	-	1 =
Value conclusions supported	H	H	10. Names of grantees and grantors  11. Legal description of comparable	품	E
Proper valuation methods used	H	H	12. Area / Size	H	H
6. A log of contacts and inspections	H	ä	13. Types of improvements (Not Applicable )	ŏ	Ē
Is the valuation report clear & does it guide and direct the reader?			14. Consideration paid		
		0 0	15. Motive of seller and/or purchaser		
			16. Unusual financing arrangements		
			17. Photographs of significant features		
Minimum Requiremen	ts fo	r Co	ompensation Estimates		
ltem	Υ	N	ltem	Υ	N
18. Project number			24. Photos of part acquired		
19. Tract number			25. Effective date of valuation		
20. Recorded ownership (tenant info if available)			26. Date of appraisal or estimate		
21. Identification of property			27. Determination of value and basis therefore		
22. Scope of work			28. Statement of value of property being acquired broken down as to land and improvements		
23. Description, location and area of acquisition			29. Data supporting land value and "cost to cure" items		
		_	30. Appraisers signature and certification	ш	
· · · · · · · · · · · · · · · · · · ·			ppraisals (includes all above Items)		
<u>Item</u>	Y	N	ltem	Y	N
31. Assumptions and limiting conditions 32. Intended use		-	Area & Neighborhood description     40. Site data (Size, Use, Dimensions, etc.)	-	H
33. Intended user	HH	H	41. Improvement data (Type, Size & Condition)	H	H
34. Property rights appraised	HH	H	42. Photos of property affected	H	H
35. Five year sales/title history	H	H	43. Maps, plats and plans	H	H
36. Physical characteristics of property	H	H	44. List of comparable sales	H	H
37. Offer for owner to accompany appraiser	H	Ħ	45. Direct comparison of sales to subject property	Ħ	Ī
38. Explanation of damages and benefits	T	Ħ	46. Complete comparable sales analysis	H	Ė
	& Aff	er /		_	_
		N	Item	Υ	N
Minimum Requirements for Before	Y		55. Description and effect of taking	Ė	Ë
Minimum Requirements for Before Item	Y				
Minimum Requirements for Before			56. Value of part taken	ă	
Minimum Requirements for Before Item 47. Letter of Transmittal 48. Legal description				_	
Minimum Requirements for Before Item 47. Letter of Transmittal			56. Value of part taken		
Minimum Requirements for Before Item 47. Letter of Transmittal 48. Legal description 49. Transmittal 49. Legal description 49. Transmittal 50. Highest & best use (Before & After) 51. Zoning			56. Value of part taken 57. Value of remainder before taking 58. Value of remainder after taking 59. Damages (or Benefits)		
Minimum Requirements for Before Item 47. Letter of Transmittal 48. Legal description 49. Tenant & Lease data 50. Highest & best use (Before & After) 51. Zoning 52. Tax & assessment data			56. Value of part taken 57. Value of remainder before taking 58. Value of remainder after taking 59. Damages (or Benefits) 60. Summary & breakdown of taking & damages		
Minimum Requirements for Before Item 47. Letter of Transmittal 48. Legal description 49. Transmittal 49. Legal description 49. Transmittal 50. Highset & best use (Before & After) 51. Zoning			56. Value of part taken 57. Value of remainder before taking 58. Value of remainder after taking 59. Damages (or Benefits)		

07-30, May 10 Version 1.00 Checklist No. 07-30

	Page 2
Remarks:	

07-30, May 10 Version 1.00 Checklist No. 07-30

## Negotiations

2022 RC Training



### The Team

#### Who May Negotiate:

 Any knowledgeable & disinterested employee of the LPA:

#### FHWA-NHI-141045:

Real Estate Acquisition Under the Uniform Act: An Overview AND

#### FHWA-NHI-141047:

#### **Local Public Agency Real Estate Acquisition**

 A Fee negotiator on the NDOT Approved Acquisition Consultant List

#### Who Cannot Negotiate:

- The Review Appraiser or person that approves any valuation report or established Just Compensation.
- (The appraiser can act as a negotiator if the "Waiver Valuation" is under \$10,000.)





## The Hand Off -Hiring Consultants

Request sent to all Approved Acquisition Consultants from the approved NDOT list

#### Request for Proposal submitted

- Acquisition Services Specifications
- Anticipated start and finish dates
- Number of tracts
- Time & date of proposal opening

#### Proposals received shall be held until the prescribed time of opening.

- Opened in the presence of at least one witness
- Opened and read aloud
- Consideration is given to each proposal checking for accuracy & responsiveness

#### LPA determines most advantageous proposal

Agreement prepared Signed & executed

Make sure your scope details what you want the consultant to do!

## **Contact the Owner** Present the offer in person Explain negotiation process & responsibilities of the LPA & property owner Provide acquisition brochure Explain plans & how their property is affected Present letters & contracts Mail the offer Sent registered mail Introduction/Offer letter Game Time Brochure ROW plans highlighting the acquisition Contract & Deeds clearly marked where they need to sign & have notarized. Appraisal documents (optional) Other documents needing signed Postage paid return envelope A call should be made one week after mailing.

#### Game Reports (Call Reports)

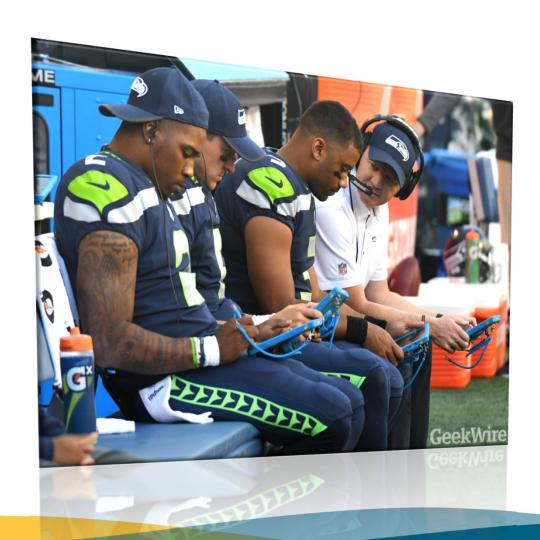
Maintain adequate records of negotiations or other contact for every parcel

Information for each call must include:

- Date
- Place of Contact
- Parties of interest contacted
- Offers Made
- Counter Offers
- Relevant questions from the owner
- List of reasons a settlement could not be reached
- How/when follow up will occur
- Any other pertinent data

Should be completed within a reasonable time

Avoid emotions & opinions



#### Purchase!

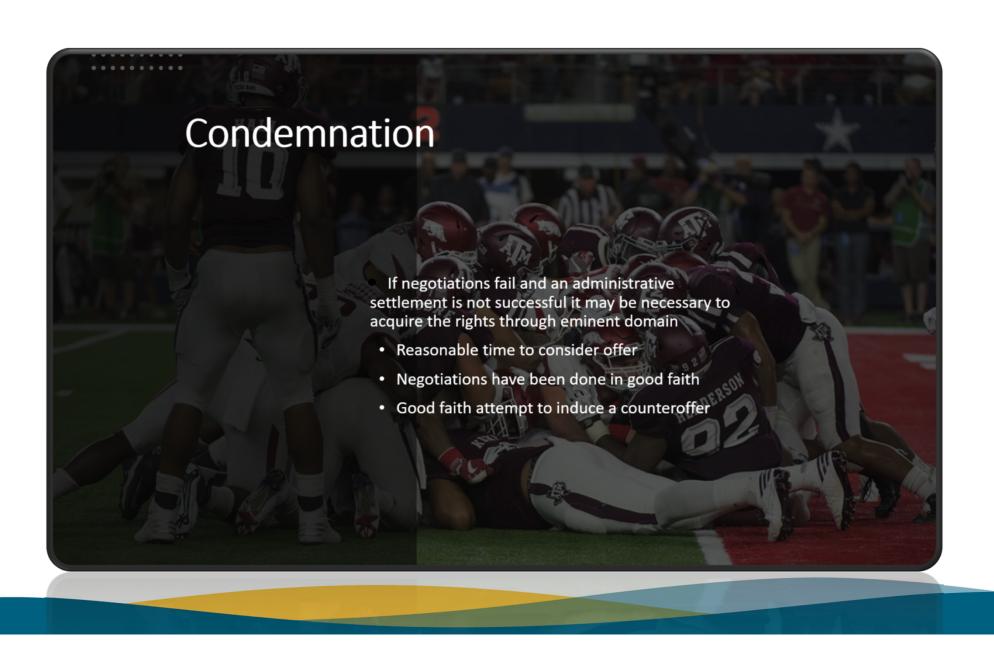
#### **Owner & Tenant Interests**

- Explain the Offer
- No Coercive Action
- Owner Opportunity to Consider
- Administrative Settlement
- Sign the documents

#### Certificate of Negotiator

Negotiator fills out certificate stating they have no present or future interest in the acquired property & all negotiations were conducted fairly







#### Payment Before Possession

Under the Uniform Act, typically no owner may be required to surrender possession before payment is made.

#### Right of Way Certificate

Prior to obtaining construction bids a ROW Certificate must be issued.

#### It states:

- Properties needed have been obtained
- They are clear of any utilities & structures which must be moved
- Displacees have been relocated
- Must include a statement the LPA has complied with the UA requirements & it is ready for construction.

## **Questions?**

#### ROW Design:

Dan Foreman, <u>Dan.Foreman@nebraska.gov</u>, (402) 479-3726

#### Appraisal:

Tim Mullin, <u>Timothy.Mullin@nebraska.gov</u>, (402) 479-4478 Greg Heinzmann, <u>Greg.Heinzmann@nebraska.gov</u>, (402) 479-4480

Relocation and LPA Negotiations:

Alison Bennett, Alison.Bennett@nebraska.gov, (402) 479-4484

Transportation Division Engineer—Right of Way:

Brendon Schmidt, <u>Brendon.Schmidt@nebraska.gov</u>, (402) 479-4460