

2022 RC Training

ROW Oversight of LPA Projects

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

ROW Design Oversight of LPA Projects

Dan Foreman - NDOT

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

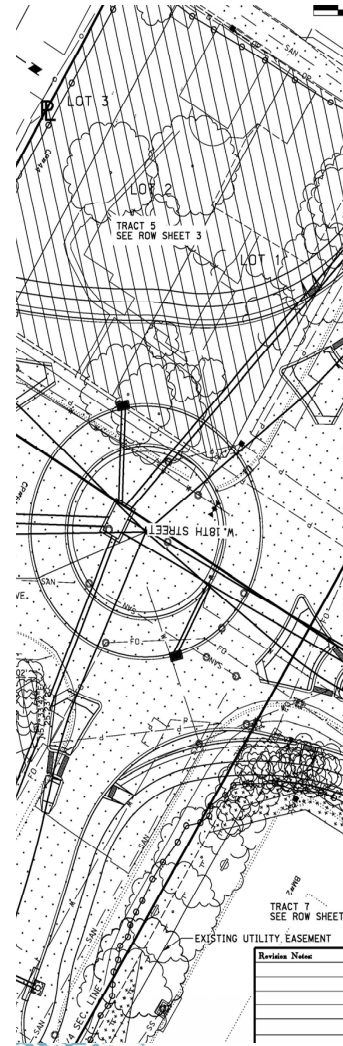
Primary Objectives of the ROW Design

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 Design Items For Proficient Projects



- 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

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

NDOT Appraisal Oversight

Completed for:

- MAPA projects
- LCLC projects

Includes:

- 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
 - <https://dot.nebraska.gov/business-center/row/appraisal/appraiser-list/>
 - 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



Negotiations

2022 RC Training

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION



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

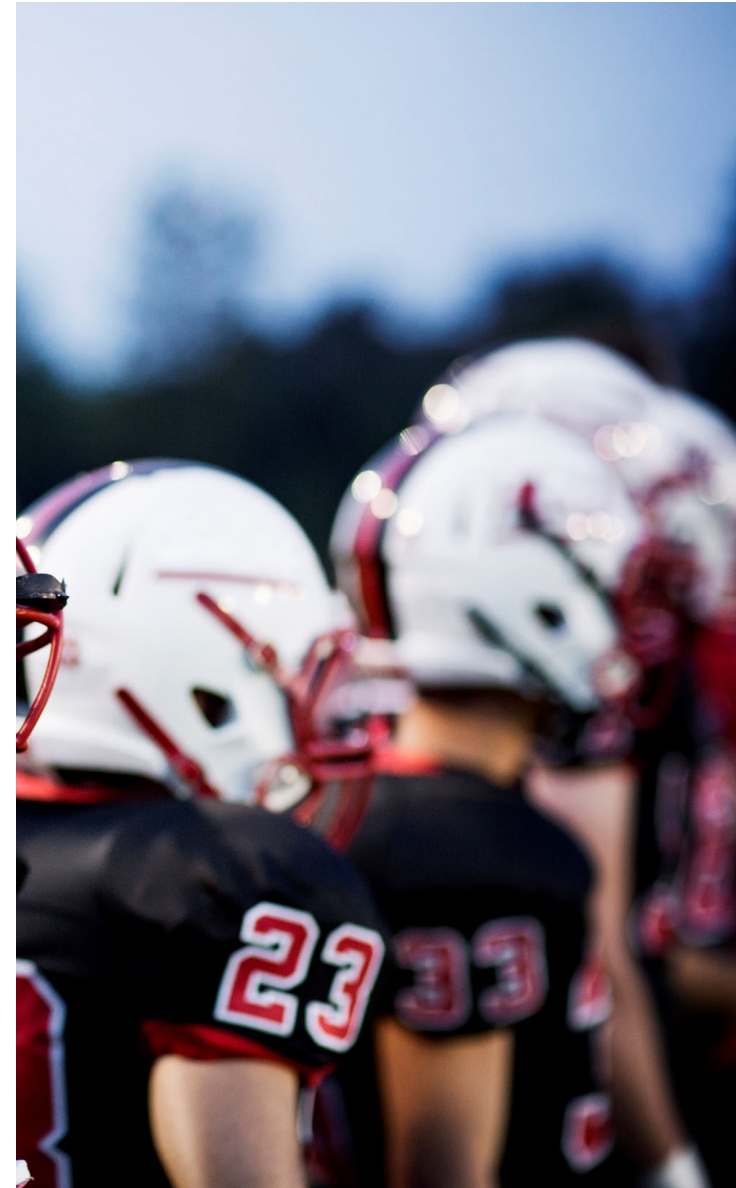
FHWA-NHI-141047:

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!





Game Time

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
- Brochure
- ROW plans highlighting the acquisition
- Appraisal documents (optional)
- Contract & Deeds clearly marked where they need to sign & have notarized.
- 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!

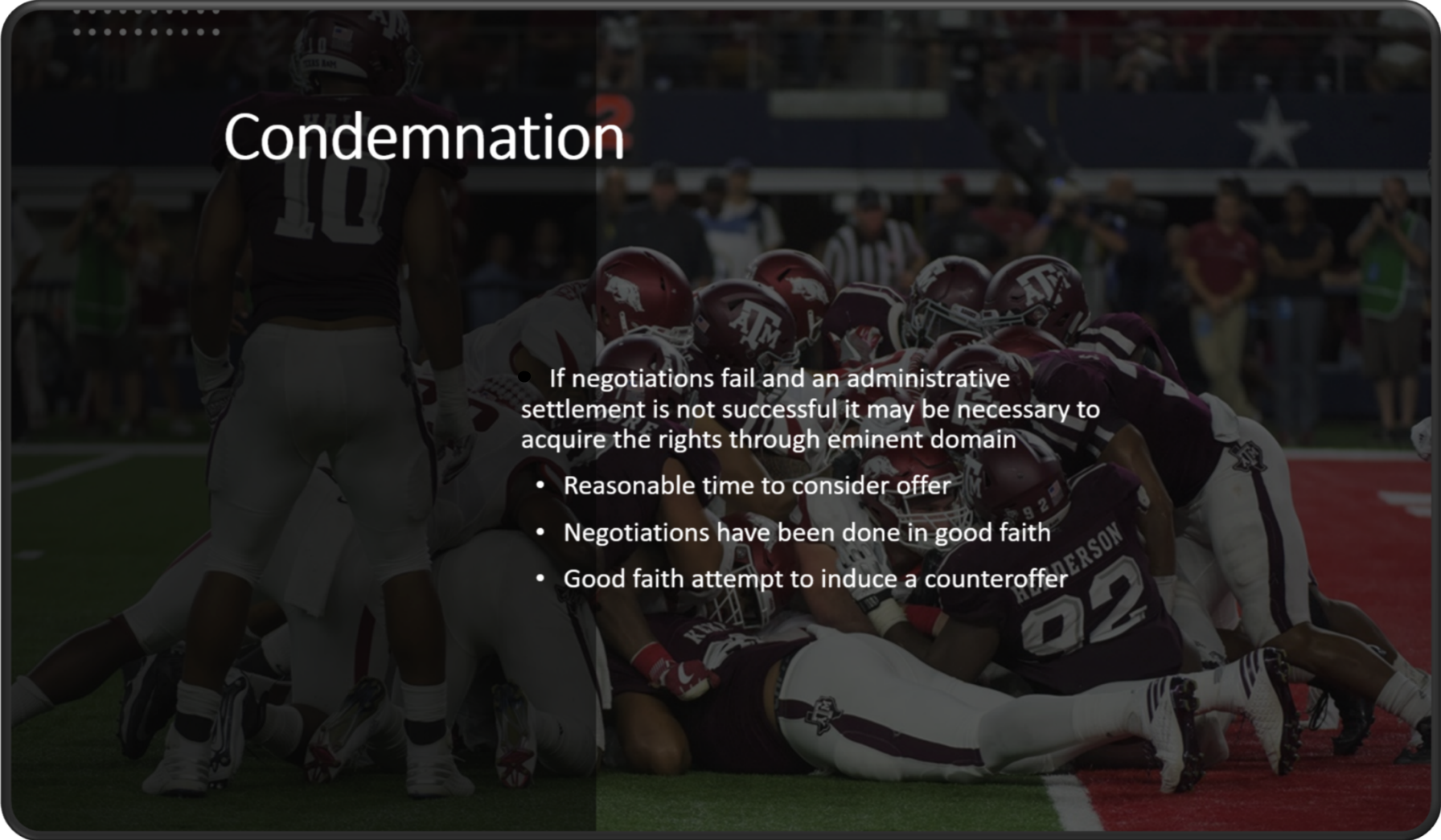
Owner & Tenant Interests

- 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





Condemnation

- If negotiations fail and an administrative settlement is not successful it may be necessary to acquire the rights through eminent domain

- Reasonable time to consider offer
- Negotiations have been done in good faith
- Good faith attempt to induce a counteroffer



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, Dan.Foreman@nebraska.gov, (402) 479-3726

Appraisal:

Tim Mullin, Timothy.Mullin@nebraska.gov, (402) 479-4478

Greg Heinzmann, Greg.Heinzmann@nebraska.gov, (402) 479-4480

Relocation and LPA Negotiations:

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

Transportation Division Engineer—Right of Way:

Brendon Schmidt, Brendon.Schmidt@nebraska.gov, (402) 479-4460

