Right-of-Way
Acquisition Process
Vision
February 2, 1995
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Right-of-Way Acquisition Process Vision Statement

TxDOT envisions right-of-way acquisition and utility adjustment processes which are integrated with the planning, design and construction processes.

The right-of-way acquisition and utility adjustment processes will be:

- streamlined, simple and proactive
- flexible, allowing for appropriate process variations
- enabled by innovative practices and policies
- supported by technology.

Participants, both internal and external, will work as partners and team members, with shared objectives and accountability for results.

Decisions will be made where the work is performed. Reviews, approvals and hand-offs will be minimized.

Goals of this vision will be:

- zero letting and construction delays caused by right-of-way acquisition and utility adjustment activities
- zero claims related to such delays
- zero project over-runs related to such delays
- effective working relations among internal and external stakeholders, including better communications with our customers and prompter service
- optimal use of human and financial resources
- minimal paperwork.
The business of providing right-of-way acquisition services is comprised of several sub-processes. Visioning workshops were held for appraisal, negotiation, eminent domain and utility adjustments.

**Right-of-way Acquisition Retooling**  
**Project Scope**

- **Project Release**
- **Appraisal**
- **Negotiation**
- **Eminent Domain**
- **Disposal of Improvements**
- **Project Cleared for Letting**

**Relocation Assistance**

**Utility Adjustments**

*After completion of the public involvement process and environmental clearance.*
Right-of-Way Appraisal Sub-Process

Old Way

- Use of the same complex method to determine the value of all parcels, regardless of parcel value or characteristics.
- Transactions with fee appraisers are driven by rigid policies and cumbersome paperwork requirements.
- Cumbersome, lengthy standard department appraisal report package.
- ROW is not included in the project development process.
- Accountability for letting delays rests with the organizational unit "holding the ball" when the letting date is missed.
- Multiple division-level low-value or redundant review and approval steps.

New Way

- Flexibility for using different value determination methods driven by parcel characteristics and professional judgement.
- Use improved techniques in selecting, contracting, working with, and compensating fee appraisers.
- A streamlined appraisal report form package that allows for flexibility in valuation approach and eliminates redundant forms.
- ROW functional area included as an equal partner in the project development process.
- A performance measurement and accountability framework that encourages teaming and sharing responsibility.
- Empowerment and accountability at the appropriate level giving districts final authority to approve fee appraiser contracts, appraisals, and value findings, and pay invoices.
Right-of-Way Appraisal Sub-Process (cont.)

Old Way

- Project coordination efforts do not integrate the activities of all functional areas working on the project.

- A cumbersome payment process that often results in delays in payments to fee appraisers.

- No clear and commonly applied definition of personalty vs. reality related to outdoor advertising signs. (Personalty is any property not permanently attached to the real estate. Reality is the land and anything attached to it by man or nature.)

New Way

- An integrated project management system encompassing appraisal and other right-of-way activities with planning, design, utility adjustment, and construction activities.

- A streamlined automated vendor payment process driven at the district level that results in timely payments to fee appraisers.

- A clear and commonly applied definition of personalty vs. reality related to outdoor advertising signs.
Right-of-Way Negotiation Sub-Process

Old Way

- Right of way is seldom acquired until after a project release is executed and environmental clearances are performed.

- Currently, all parcels to be acquired must have title insurance purchased and a full appraisal performed regardless of value.

- Contracting is used for fee appraisers only. Current practices do not allow for contracting other right-of-way activities.

- Current practice is to make "one offer" to the property owner. There is no flexibility in place to allow for negotiations prior to or after the offer is made.

- The current payment process to pay property owners takes 6-8 weeks.

New Way

- A risk assessment will be performed to determine if right-of-way acquisition can begin on projects before the environmental clearance is complete. Right-of-way acquisition will be integrated earlier in the project development process through scheduling and coordination efforts with stakeholders.

- Risk management will be used as a decision support tool for all ROW acquisition activities.

- Private vendor contracts will be allowed for all areas of right-of-way.

- True negotiations with the use of administrative settlements, mediation, possession and use agreements, and purchase of uneconomic remainders.

- The payment process to pay property owners will be streamlined.
Right-of-Way Negotiation Sub-Process (cont.)

Old Way

- Multiple hand-offs, approvals and reviews result in non-value added activities.
- The needs of the ROW Division and districts are not supported by an automated decision support system.

New Way

- Districts empowered to approve ROW maps, administrative settlements, and possession and use agreements.
- An automated ROW system will be used as a decision support tool and for parcel tracking.
Right-of-Way Eminent Domain Sub-Process

Old Way

• Attorney General's office - Transportation Division is totally centralized.

• Approval of eminent domain proceedings (minute order) done on a parcel by parcel basis by TxDOT Commission.

• Special Commissioners appointed on a parcel by parcel basis.

• No procedural guidelines for use by the department or the courts.

• Payment process goes from district to Right of Way Division to Budget and Finance Division to Comptroller and return same route.

• No quick-take ability.

New Way

• Attorney General's office - Transportation Division is regionalized for better familiarization of projects and better attorney - client relationships.

• Approval of eminent domain proceedings done for an entire project by the Executive Director.

• Standing Special Commissioners panel appointed by judge for an entire project along with standardized fees.

• Use of procedural guidelines to include steps and appropriate laws for department personnel, courts and court clerks.

• Payment process goes from district to Budget and Finance Division to Comptroller and return same route.

• Quick-take statute provides project scheduling management with a known date of possession.
Right-of-Way Eminent Domain Sub-Process (cont.)

Old Way

• Non-automated process.

• Time consuming reviews of eminent domain package in multiple areas of the Right of Way Division before sent to the Attorney General's office.

• Lack of knowledge as to right-of-way acquisition processes and required time lines by design and area engineers.

New Way

• Fully automated process between districts, Right of Way Division, Attorney General's office, and fee appraisers.

• Review of the eminent domain package only in the legal section of the Right of Way Division before being sent to the Attorney General's office.

• All functional areas knowledgeable about roles and responsibilities in the project development process with shared accountability.
Right-of-Way Eminent Domain Sub-Process (cont.)

Old Way

- Project coordination efforts do not integrate the activities of all functional areas working on a project.

- Pockets of specialized expertise/knowledge exists in the ROW function. Risks are high associated with potential employee turnover and missed opportunities for statewide implementation of internal best practices.

New Way

- An integrated project management system encompassing eminent domain and other right-of-way activities with planning, design, utility adjustment and construction activities.

- A central education function will provide the conduit to establish a broader base of ROW knowledge.
Right-of-Way Utility Adjustments Sub-Process

Old Way

- Utilities are often "surprised" by construction lettings.
- Each project is treated separately, resulting in "re-inventing the wheel" and coordination problems.
- Utility adjustments are considered as part of the ROW function.
- Project letting schedules are disrupted by unanticipated utility adjustments.
- Impediments to joint bidding between TxDOT and utilities.
- Maps cannot be shared due to incompatibility between GIS and CADD systems or they exist on a paper medium.

New Way

- Utilities are involved in the planning, design and construction process, beginning at the early phases of project development.
- Memorandums of Understanding are negotiated to establish roles, responsibilities and coordination between TxDOT and utilities on all projects.
- Utility adjustments are considered as part of Transportation Planning and Development and Construction areas.
- Utility adjustment time lines are jointly developed and integrated with the master project schedule prior to letting.
- Joint bidding between TxDOT and utility companies is encouraged.
- Maps are shared electronically (internally & externally) through standardized GIS and CADD systems.
Right-of-Way Utility Adjustments Sub-Process (cont.)

<table>
<thead>
<tr>
<th>Old Way</th>
<th>New Way</th>
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<tbody>
<tr>
<td>• &quot;Arms-length&quot; or adversarial relationship between TxDOT and utilities.</td>
<td>• Partnerships between TxDOT and utilities.</td>
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<td>• Delays associated with reviews, approvals and hand-offs.</td>
<td>• Increased delegation of decision making authority to</td>
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<tr>
<td>• The role of the ROW Division is primarily one of review and approval.</td>
<td>the districts including approving the use of consultant</td>
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<tr>
<td>• Accountability for utility adjustments is diffused among several</td>
<td>engineer services, approving consultant engineer</td>
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<td>functional areas.</td>
<td>contracts, and executing joint use agreements.</td>
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<tr>
<td>• Utility costs are not eligible for reimbursement until the</td>
<td>• The role of the ROW Division is primarily one of</td>
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<td>relocation workplan is approved by the ROW Division.</td>
<td>policy support and knowledge transfer.</td>
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<td></td>
<td>• Accountability for Memorandum of Understanding is with district</td>
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<tr>
<td></td>
<td>directors of Transportation Planning and Development.</td>
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<tr>
<td></td>
<td>Accountability for utility adjustments is with TxDOT project</td>
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<td></td>
<td>managers.</td>
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<td></td>
<td>• Utility costs are reimbursable as of date of initial</td>
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<td>contact letter.</td>
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Right-of-Way Utility Adjustments Sub-Process (cont.)

Old Way

- Complex cost reimbursement mechanisms are not compatible with utility business practices and accounting systems. These mechanisms contribute to billing delays and budget management problems.
- Small dollar "red tape" results in large dollar delays.

New Way

- Methods for cost reimbursement to the utilities are simpler and streamlined.
- Policy flexibility allows prioritization of situations and decision making in the overall context of the project schedule and budget.
Individual Sub-Process Vision Statements
ROW Visioning Workshop Participants

<table>
<thead>
<tr>
<th>Appraisal</th>
<th>Negotiation</th>
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<tbody>
<tr>
<td>(1/11/95-1/13/95):</td>
<td>(1/11/95-1/13/95):</td>
</tr>
<tr>
<td>1. Bob Dunlap - ROW Division</td>
<td>1. Jim Henry - ROW Division</td>
</tr>
<tr>
<td>2. Terry May - Dallas District ROW</td>
<td>2. Richard Guerra - Pharr District ROW</td>
</tr>
<tr>
<td>3. Lynwood Walters - Beaumont District ROW</td>
<td>3. Lawrence Emerson - Yoakum District ROW</td>
</tr>
<tr>
<td>5. Samuel Wilson - Bryan District ROW</td>
<td>5. Frances Willison - Houston District ROW</td>
</tr>
<tr>
<td>7. Connie Williford - Fee Appraiser</td>
<td>7. Sandy Allen - Federal Highway Administration</td>
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<tr>
<th>Eminent Domain</th>
<th>Utility Adjustments</th>
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<tbody>
<tr>
<td>(1/18/95-1/20/95):</td>
<td>(1/11/95-1/13/95):</td>
</tr>
<tr>
<td>1. John Zimmerman - ROW Division</td>
<td>1. John Campbell - ROW Division</td>
</tr>
<tr>
<td>4. Butch Jackson - Corpus Christi District ROW</td>
<td>4. W.L. Wimberley - Fort Worth District ROW</td>
</tr>
<tr>
<td>5. Robert Rice - Austin District ROW</td>
<td>5. David Birmingham - Brownwood District ROW</td>
</tr>
<tr>
<td>6. Harvey Heerssen - Pharr District ROW</td>
<td>6. Randy Spear - Waco District ROW</td>
</tr>
<tr>
<td>8. Byron Hinton - Fee Appraiser</td>
<td>8. Katherine Chase - Construction and Maintenance Division</td>
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<tr>
<td>10. James Blackburn - Lufkin District ROW</td>
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Right-of-Way Appraisal Vision Statement

We envision a coordinated appraisal program which enables TxDOT to maximize time and cost savings for ROW projects by:

- using effective communications between all partners from design to construction;
- including the appraisal team as an equal member of an overall project team with significant input towards the establishment of time-lines necessary to complete each phase, culminating in the establishment of a realistic letting date.

We envision a streamlined appraisal approach free of self-imposed constraints.

We envision a flexible appraisal approach which allows for process variations depending on parcel characteristics, enabled by using tools such as:
- the appraisal waiver
- value finding
- employing appraisal firms as well as individual appraisers
- and appraisal contracts by the project as well as by the parcel

This vision will be enabled by the deployment of technology to internal and external partners at the level where work is performed.

This vision will be enabled by placing empowerment and authority at the lowest levels.
RIGHT-OF-WAY NEGOTIATION PROCESS
VISION STATEMENT

We envision a flexible and streamlined process which is responsive to the needs of our internal and external customers.

This process design will produce an environment of confidence, trust and partnership which empowers stakeholders to accomplish the acquisition of right-of-way.

This environment is created through the use of comprehensive networking of risk management, education and technology.
Utility Adjustments Vision Statement

We envision a partnership between TxDOT and the utility industry which promotes cooperation, understanding, and shared accountability. Utilities will be recognized as transportation entities and inseparable parts of the Texas transportation system.

Furthermore, we envision a utility adjustment process integrated with planning, design, right of way acquisition and construction to achieve efficient and accurate adjustments without letting delays or conflicts with construction in progress.

The utility adjustment process will be proactively managed and will begin in the programming stage. As team members, utilities will participate throughout the project development process.

Technology will support continuous exchange of information through automated processes, resulting in a comprehensive inventory of transportation assets, including utility facilities.

Benefits of our vision will be:
- to eliminate utility related letting delays
- to eliminate utility related construction delays
- to eliminate utility related contractor claims
- to execute Memorandums of Understanding with all utility companies.

Redirection of existing resources and priorities will allow for this vision to become an immediate reality.

January 13, 1995

Bill Winkleby

[Signatures]

Bill Chance

[Signatures]
Right-of-Way Eminent Domain Vision Statement

We envision a right of way acquisition process that will minimize the number of eminent domain cases through the use of innovative practices and policies.

When eminent domain proceedings are required, the process will be automated, simplified, streamlined, less bureaucratic, fair and quick.

We envision an efficient eminent domain process which:

❖ employs cooperation and communication between all stakeholders (e.g., design, right of way, construction, Attorney General's Office, fee appraisers, property owners, local public agencies, courts, and opposing counsels)
❖ utilizes technology to enhance effectiveness
❖ utilizes continuing education programs to empower participants
❖ promotes timely handling of eminent domain requests by minimizing reviews, approvals and hand-offs
❖ places empowerment at the lowest appropriate level.

Benefits of our vision will be:

❖ elimination of letting and construction delays caused by the right of way process
❖ reduction of net costs
❖ increased customer satisfaction
❖ increased flexibility in the eminent domain process
❖ better utilization of fiscal and human resources
❖ substantial reduction in paperwork.

This vision will result in the timely and cost effective acquisition of right of way.

[Signatures]