

## OUTLINE OF RIGHT-OF-WAY ACQUISITION PROCEDURES FOR HIGHWAY OCCUPANCY PERMITS

The following are suggested chronological steps for successfully completing the conveyance process when an applicant must obtain land for State highway Right-of-way in connection with obtaining a highway occupancy permit (HOP). Because each conveyance may have unique circumstances and requirements, the process may and should be adjusted based on direction from the specific Engineering District in which the permit is being issued.

This outline is not intended to be a substitute for the policy set forth in Chapter 3 on Right-of-way acquisition procedures in permit projects. There are requirements and guidance in the chapter that apply but are not contained in this outline.

1. Complete traffic study identifying impacts. (Approved by Department)
2. Propose capacity or safety mitigation improvements. (Approved by Department)
3. Obtain appropriate existing Department right of way (RW) plans.
4. Develop sketch plan of improvements.
5. Conduct RW and property research:
  - a. Obtain copies of tax maps from the local tax assessor's office.
  - b. Identify all properties and tabulate property tax numbers.
  - c. Obtain names of property owners, mailing addresses, deed references.
  - d. Obtain copies of all deeds.
  - e. Obtain ordinances, dedications.
  - f. Obtain utility easements.
  - g. Identify railroad RW.
6. Perform preliminary determination of utility involvement.
7. Perform preliminary determination of environmental involvement.
  - a. The Department should conduct a thorough visual inspection of the property for evidence of hazards or regulated resources before accepting a deed.
  - b. The Department may require an applicant to deliver an environmental report for review before accepting a deed.
8. Prepare more detailed preliminary plan showing property(ies) with existing and proposed improvements and required RW.
9. Arrange for a pre-meeting with PennDOT, with the following recommended attendees:
  - a. PennDOT single point of contact (Permit Unit representative).
  - b. District RW Administrator (or representative).
  - c. Chief of Survey, Environmental Manager, Utility Administrator as appropriate.
  - d. Applicant.
  - e. Applicant's consultant.
  - f. Applicant's counsel as appropriate.
  - g. PennDOT counsel as appropriate
10. Suggested pre-meeting agenda:
  - a. Identify and define single point of contact (usually within Permit Unit).
  - b. Submissions to be whole submissions, not partial submissions. Preliminary submission can be made. Final submission to include draft M950 D Deed and title documentation.
  - c. Select standard or simplified RW plans presentation (DM3, Chapter 3).

- d. Review plan presentation details unique to HOP plans (DM3, Chapter 3).
  - e. Review acceptable form of deed (i.e. fee simple or easement).
  - f. Review title documentation requirements:
    - 1. Record owner and lien certificate/ abstract of title / title report.
    - 2. Exceptions to title must be addressed and removed where appropriate in the determination of PennDOT.
  - g. Review issues customized to a particular site.
    - 1. Elimination of utility easements, general utility clearance requirements.
    - 2. Environmental requirements for RW area to be transferred.
    - 3. Determine if drainage easements needed and deeded to municipality if the municipality maintains drainage.
    - 4. Obtain general concurrence by PennDOT as to how much RW needed beyond roadway to maintain facilities (e.g.: 5' min for signs, sometimes 8' beyond toe of slope in a fill section, total width multiples of 5', etc).
    - 5. Confirm that necessary temporary construction easements (TCEs), rights of entries or permissions have been acquired; do not show TCE's on RW plans.
    - 6. Consider effect of land development requirements including building set-backs
    - 7. Discuss survey requirements.
  - h. Explain recording procedures
    - 1. Who, when and where.
    - 2. Discuss particular county recorder needs; every county a little different; RW Administrator may give guidance.
11. Suggested appropriate method to approach property owners where State or Federal funds are not being used and PennDOT has not authorized the local government to condemn if necessary.
- a. Use standard form for initial letter/contact with property owners:
    - 1. Explain general overview of the project.
    - 2. Assess general interest or cooperation.
    - 3. Clarify that this is not a PennDOT project but rather a private inquiry.
    - 4. Include a statement of no condemnation authority.
    - 5. Assurance that only amicable arrangements possible.
    - 6. Offer to have appraisal performed at no cost to property owner.
    - 7. Offer to provide fair market value.
    - 8. Offer to do all paperwork.
    - 9. Offer to meet and discuss.
    - 10. Offer contact person at PennDOT for information or to request PennDOT participation in meetings.
    - 11. Offer contact person at municipality for information or to request municipal participation in meetings.
    - 12. Offer to consider counter offers.
    - 13. Allow reasonable response times.
    - 14. Make sure documents are notarized if necessary.
  - b. Follow up with formal offer including conditions, schedule information, and opportunity to accept or decline.
12. If not successful in acquiring RW and thus unable to meet design standards, then the applicant will need to redesign the project or pursue having the local government condemn

- the property if authorized by PennDOT; if the project cannot be reasonably redesigned or the local government or PennDOT will not authorize condemnation, then the applicant will need to request a design waiver. [see 67 Pa. Code §441.5(e) and Chapter 3 of this manual on Waiver of Design Requirements.]
13. PennDOT may give a municipality the power to condemn property for State highway purposes in exceptional circumstances with the approval of the District Executive.
  14. If applicant is successful in obtaining RW, then the following information must be prepared by the applicant:
    - a. Drawings depicting right-of-way to be conveyed for the State highway prepared in accordance with Department Publication 14, Design Manual Part 3, Chapter 3.
    - b. Deed, Fee Simple (Form M-950 D1); or, if approved by the District, Deed of Easement (Form M-950 D2). These form deeds are available from any Engineering District Office.
    - c. Title documentation.
  15. Perform survey if necessary.
    - a. PennDOT conveyances are generally based on a plot plan showing the area being conveyed and all or part of the tract of land from which it will be conveyed.
    - b. A metes and bounds description may be acceptable if it is supported by a sealed survey for Department review. Confirm with the Department prior to performing a field survey. Review by the Department's Survey Unit typically requires verification of the point of beginning and subsequent deed calls, which can be impractical.
    - c. Obtain permission to enter property before surveying.
    - d. Survey wells and septic systems, all buildings, commercial signs, and private and public utilities which are adjacent to the highway corridor.
    - e. Locate miscellaneous property corners readily available along the highway corridor.
    - f. Survey references should conform to Department Publication 122M, Survey and Mapping Manual.
  16. Prepare final RW plans.
    - a. These drawings document the extent of the new RW in the Department's record keeping system. In order to do so the applicant is required to generate a plan depicting the RW that will be deeded to the Department. This plan shall follow the procedures set forth in Design Manual Part 3, Chapter 3 for generating drawings authorizing the acquisition of RW for Department projects as modified for permit projects under Chapter 3. Use only 22" X 34" sheet size.
    - b. Where the majority of the HOP construction is within existing right-of-way, only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See DM3, Chapter 3, Section 3.0.G (Simplified Right-of-Way Plans). Otherwise, typical drawings can be organized as follows:
      1. Sheet 1 – Title Sheet to include special title and signature blocks for District Executive and Secretary of Transportation. Appropriate personnel, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager, and/or District RW Administrator, should review the plan prior to signature. The title sheet will need to contain a recording block because the plan will be recorded. [DM3 Sections 3.0.H, page 3-5, and 3.2.I.6, page 3-18, and references therein.]

2. Sheet 2 – Index Sheet which may be combined with Sheet 3 if a one-sheet presentation is being used. [DM3, Section 3.3, pages 3-20, et seq.]
  3. Sheet 3 – Typical Section Sheet [DM3 Section 3.4, pages 3-25, et eq.]
  4. Sheet 4 – Plan Sheet showing the proposed work area with legal and required RW designated. Instead of the normal designation of “required RW” the areas that will be deeded to the Department should be designated as ”required RW to be deeded to the Commonwealth.” If an area is intended for other than highway RW the area should be marked in a similar manner indicating the nature of the interest that will be transferred to the Department (e.g. “required limit of slope to be deeded to the Commonwealth” or “required drainage easement to be deeded to Mellon Township”). Show all dimensions, plus(s)/offsets, and geometric data. If the centerline of the road is relocated, it must be clearly referenced and dimensioned from the existing centerline [DM3, Section 3.5, pages 3-40, et seq.].
  5. Sheet 5 – Property Plot Plan (formally known as Property Plat) of parcel from which the RW is being acquired. Check with District Permit Manager if this sheet is required as determined in consultation with the District RW Administrator or other real estate expert (discuss during pre-meeting). Identify deed information on plot. Fit plots to topographic features. Mark proposed RW monument points. Include all other slope easements, drainage easements, utility easements, etc. [DM3, Section 3.6, pages 3-50, et seq.]
- c. Calculate preliminary areas and complete the information block Title Block [DM3 Section 15.1, page 15-4 for sample]. Remove the word “Claim” for HOP RW drawings.
  - d. Drawings will be reviewed by the District Permit Manager and other District personnel deemed appropriate such as the District RW Administrator, District Surveyor, District Plans Engineer and District Utility Administrator, and the assigned Central Office Field Liaison Engineer.
  - e. Stamp reproducible drawings with those of the Professional Land Surveyor and Professional Engineer responsible for the plans.
  - f. Sign the RW plan Title Sheet.
  - g. PennDOT process for execution by Secretary of Transportation.
  - h. District to insure acquisition of the new RW is properly filed and documented for future reference and use by the District and others.
17. Resolve utility/environmental issues.
18. Deed delivered, approved by District and recorded
- a. Form M-950 D1 (Deed, Fee Simple) shall be used to convey the needed RW from the applicant to PennDOT unless PennDOT approves use of Form M-950 D2 (Deed of Easement).
  - b. Land not owned by the applicant must first be conveyed to the applicant and then by the applicant to PennDOT in one deed using the appropriate deed form.
  - c. The deeds utilize a plot plan referenced as an exhibit. A metes and bounds description can be used with the M-950 D1 if only fee simple title is being transferred.
  - d. The applicant is required to provide title documentation (preferably a record owner and lien certificate) updated within 15 days of the date the land will be conveyed to PennDOT. All exceptions to title must be addressed and removed as determined necessary by PennDOT.

- e. Once the executed deed is obtained, the District must review and approve the deed and the plot plan or description before it is recorded (by the applicant if requested by PennDOT).
19. Record RW plan.
- a. The District Permit Manager along with the District RW Administrator or other District real estate expert will, preferably during a pre-meeting, provide and explain the recordation process based on PennDOT recording needs and the applicable county recording requirements.
  - b. Costs associated with the county's recordation process are the responsibility of the applicant.
20. Issue HOP.
- a. All negotiations must be settled and the approved deed (with approved plot plan and title documentation) must be executed prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.
  - b. The RW plan must likewise be completed and approved prior to issuance of the HOP except in exceptional circumstances with the approval of the District Executive.