



REAL ESTATE ACQUISITION

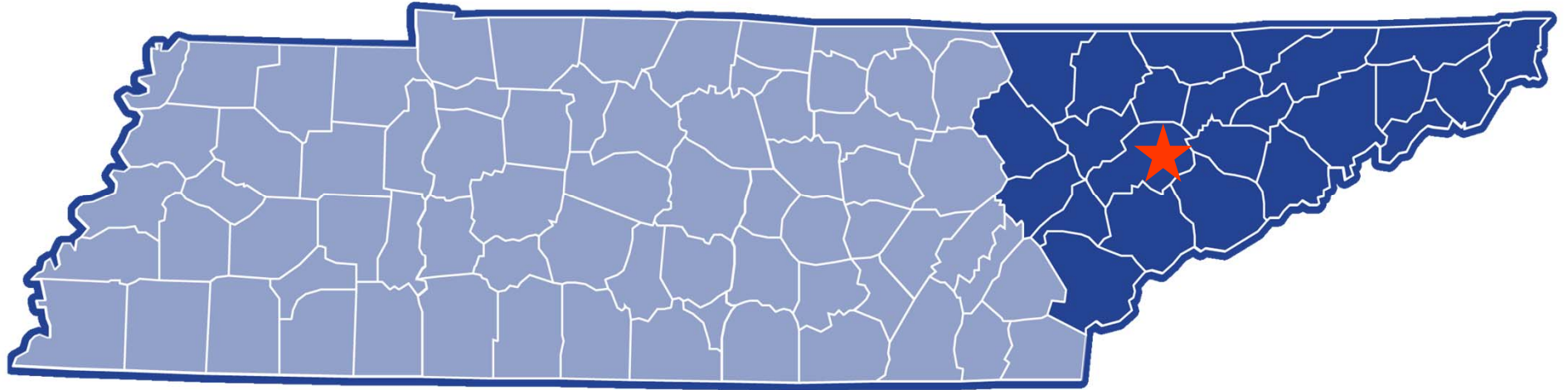
for Local Governments

Right of Way Division, Tennessee Department of Transportation - 2020

Introduction

- Required Training
- Regional Contacts
- General Overview
 - Project Development
 - Eminent Domain & Legal Authority
 - Right of Way
 - Appraisal
 - Acquisition
 - Relocation
 - Property Management
 - Utilities/Railroad

Introduction

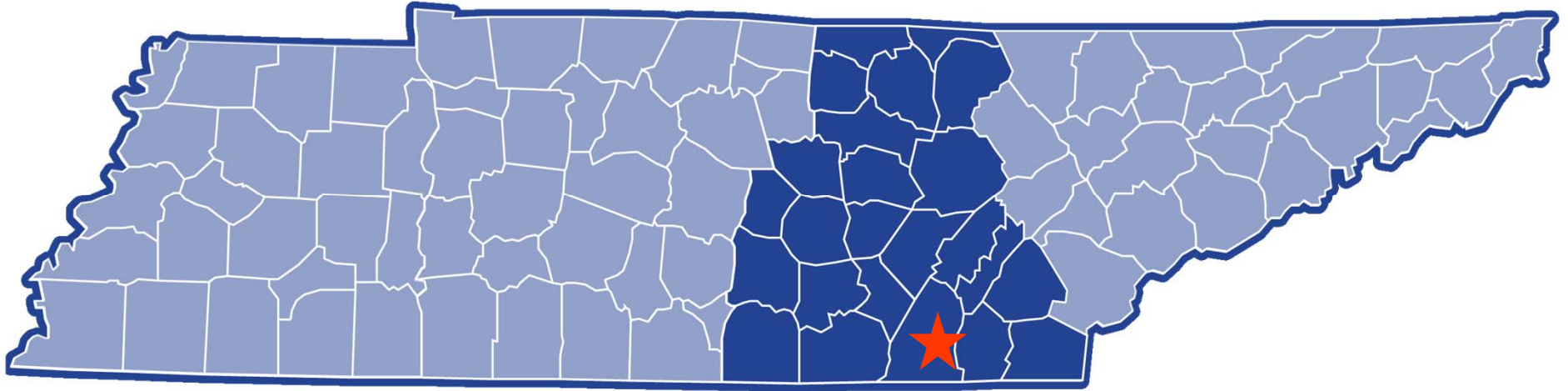


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Introduction



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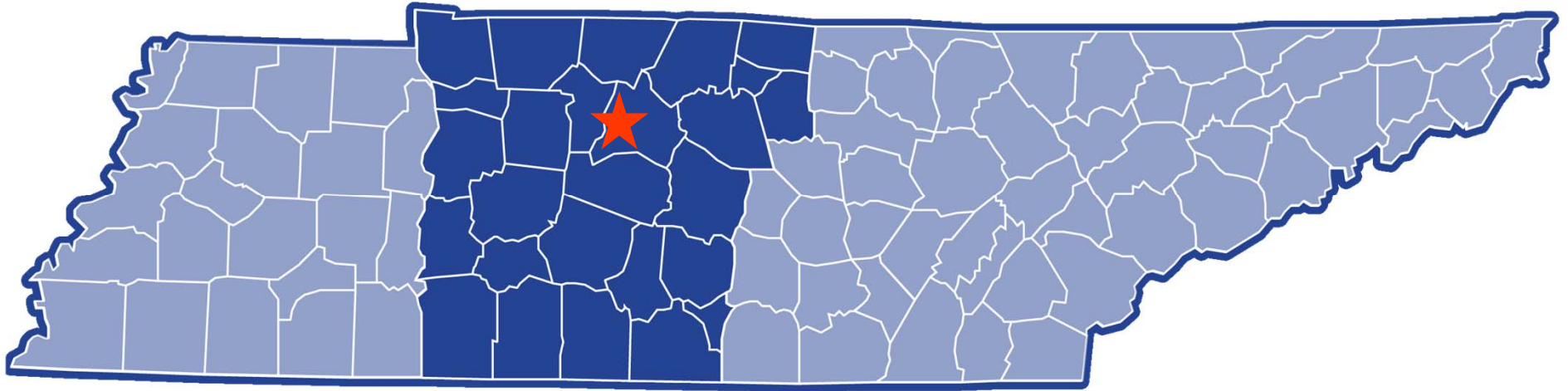
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Introduction



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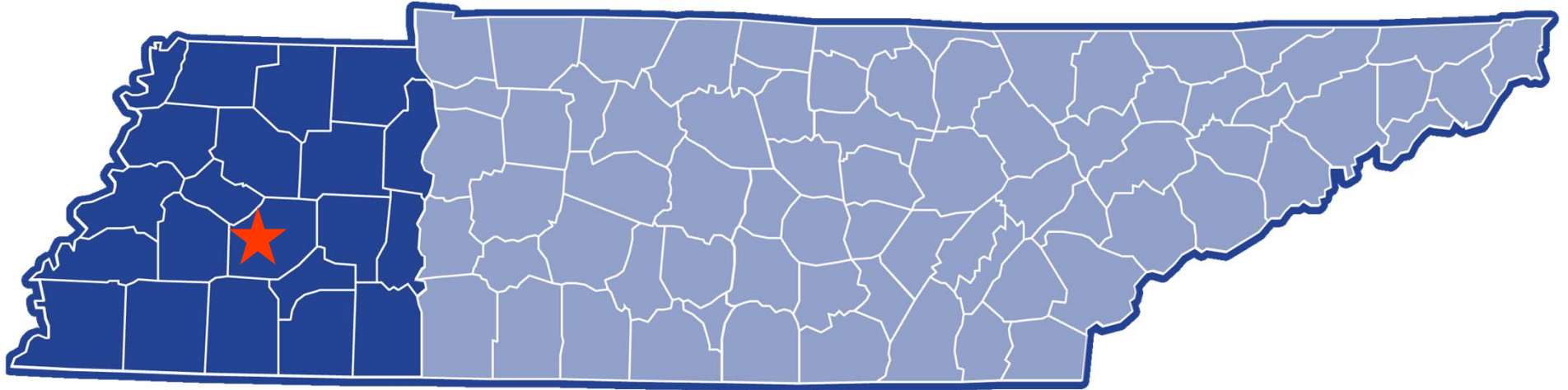
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Introduction



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Introduction

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EXCESS LAND

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UTILITIES

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UTILITIES REGIONS 1 & 2

BEN GREESON – Manager

UTILITIES REGIONS 3 & 4

Monica Cromer – Manager

RAILROADS

JAY LANIUS – Coordinator

CHRIS JOHNSTON – Assistant Coordinator



Eminent Domain

Eminent Domain

Definition:

- The right of a government or its agent to expropriate private property for public use
- Requires the payment of “just” compensation
- “Condemnation” is the legal process by which private property is taken for public use

Eminent Domain

Legal Authority:

- U. S. Constitution
 - 5th Amendment: *...nor shall private property be taken for public use, without just compensation*
 - 14th Amendment: *... nor shall any State deprive any person of ... property, without due process of law;*
- Uniform Relocation Assistance and Real Property Acquisition Act (1970)

Eminent Domain

Legal Authority:

- Tennessee Constitution
- 49 CFR Part 24: Federal Implementing Regulations
- State Laws
- State Administrative Regulations
- TDOT Right of Way Policy and Procedure Manual

Eminent Domain

Public Use:

- Public facilities
- Government buildings
- Public utilities
- Public safety
- Economic development





Project
Development

Project Development

Before you begin:

- Reimbursement of projected expenditures is contingent on compliance with the Uniform Act and other governing Federal and State requirements.
- You must follow the Uniform Act even if you don't utilize Federal funds in the Right of Way Phase of the project.
- Final Right of Way Plans have been issued
- Title reports have been completed

Project Development

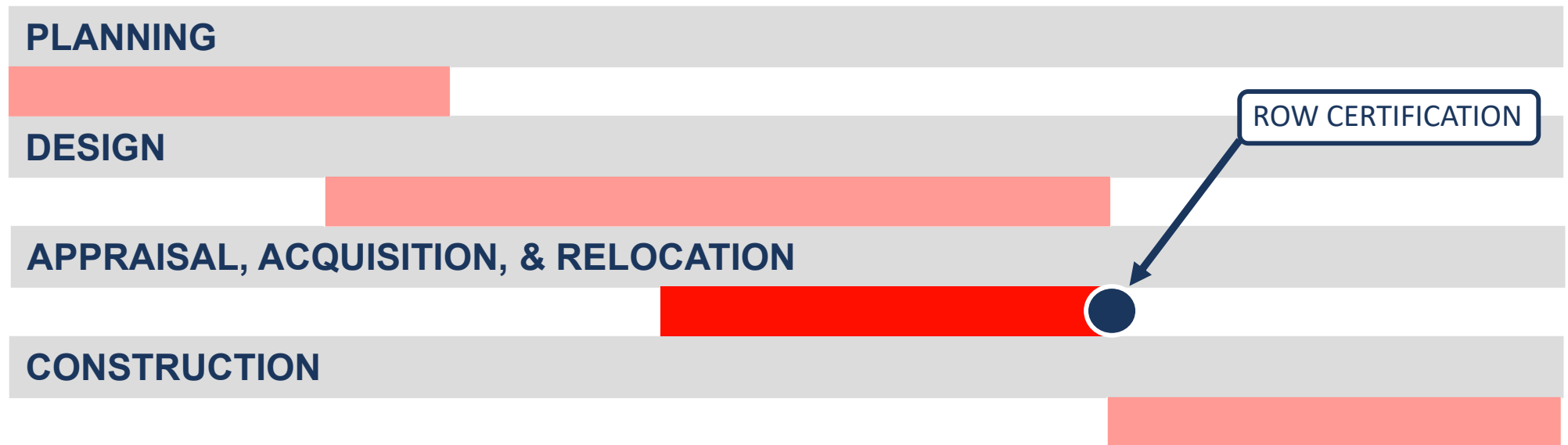
Before you begin:

- **NO** Right of Way activities are to be initiated until your agency has received a notice to proceed from TDOT.
- Appraisal, Appraisal Review, Acquisition, Relocation Assistance, and Property Management consultants **MUST** be prequalified by TDOT.
 - Prequalified Consultants can be found listed on the TDOT ROW web page.
 - Smaller agencies will require consultants to maintain the “separation of functions” required.



Project Development

Timeline:



Project Development

Right of Way Certification:

- All properties needed for construction have been obtained.
- All properties are free and clear of any utilities, structures, businesses or people.
- All displaced persons have been relocated to another location.
- Contains a statement that the acquiring agency has complied with the Uniform Act.



Excess Land

Excess Land

Why is Excess Land important to me?:

- If you want to use State ROW for your project, it **MUST** go through the excess land process.
- This applies to non-roadway appurtenances such as enhancements, greenways, sidewalks, bike trails, etc.
- If you buy property using federal funds, all uneconomic remnants must go through the excess land process before being disposed of.

Excess Land

The Process:

- Submit request to Regional Coordinator.
- Request goes before Committee to be recommended, deferred, or denied.
- An Environmental Document is **REQUIRED**.
- Appraisal is prepared if needed.
- Document of conveyance is prepared and executed.

Excess Land

The Process:

- When submitting your request to TDOT, we will need your design plans in order to approve your request.
- There should be **ONE** point of contact for your agency.
- The more information you can provide on the front end, the less delays we will have during the process.



Valuation

Valuation

Objectives:

- Why do I need an appraisal?
- How do I select an appraiser?
- Identify & define the property
- Types of acquisitions
- Appraisal & Appraisal Report
- Appraisal Review & Appraisal Review Report
- Approved Offer (Administrative Function)

Valuation

Why do I need an appraisal?:

- Specifically required by the Uniform Act
 - 49 CFR Part 24.102(c)(1)
 - Use of federal dollars in any part of your project invokes this requirement
- Exceptions
 - Appraisal Waiver aka Nominal Payment Parcel (NPP)
 - Donation

Valuation

How do I select an appraiser or review appraiser?:

- Must select from TDOT's pre-qualified Panel
 - Holds a Certified General (CG) or Certified Residential (CR) certificate
 - Meets minimum TDOT requirements for education, experience, familiarity with TDOT's Guidelines for Appraisers & forms, and the ability to read & discuss right of way plans
- Hire your Review Appraiser **FIRST**
- Appraiser & review appraiser must be independent. That is, they cannot be from the same company.

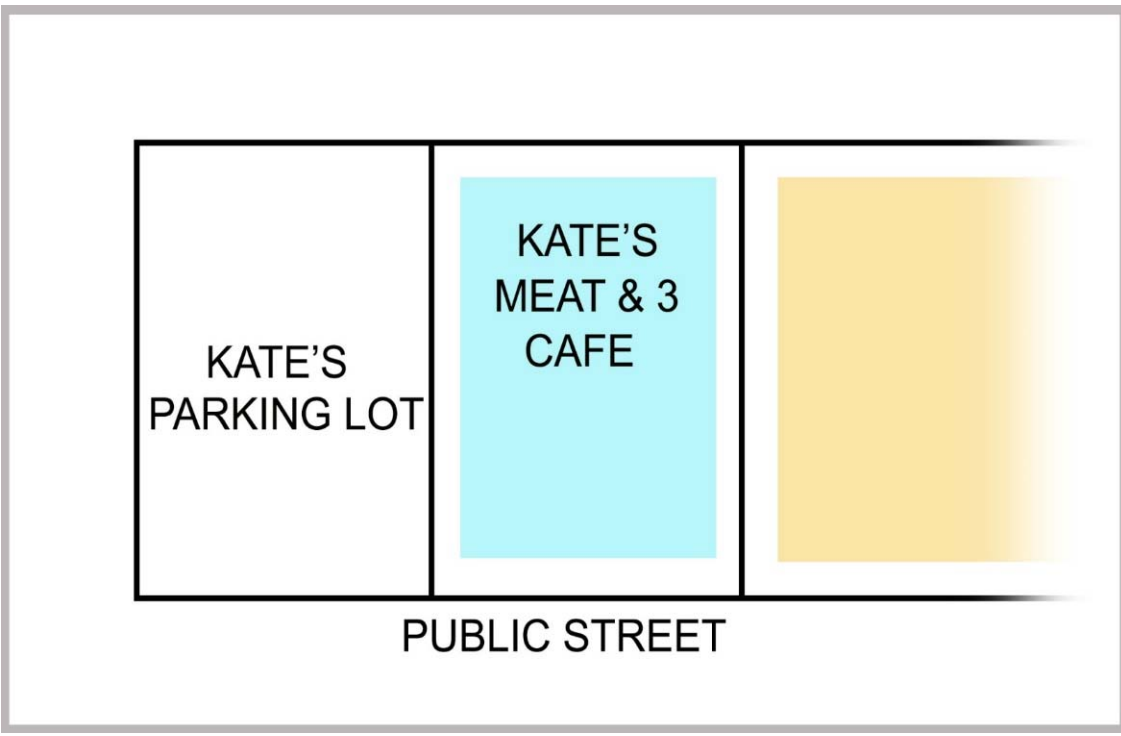
Valuation

Identify & Define the Property:

- Right of Way Plans
 - Acquisition Table
 - Plan sheets: Present layout, Proposed layout, ROW Details
- Inspection by Appraiser
- Concept of the “**LARGER PARCEL**”
 - Tracts outside of the project may be impacted
 - Unique to Eminent Domain Valuations

Valuation

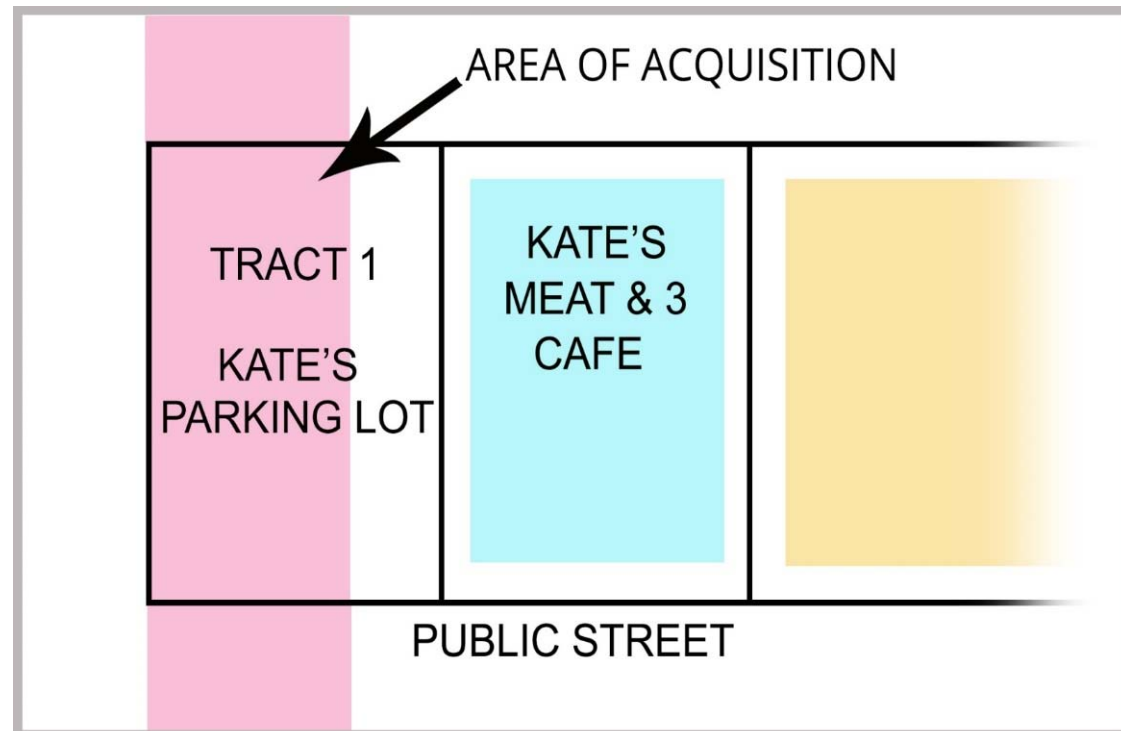
Example of the Larger Parcel:



Valuation

Example of the Larger Parcel:

- Conjunctive Use?
- Same Ownership?
- Adjoining Property?*



Valuation

Types of Acquisitions:

- Total Acquisition
- Partial Acquisition
 - There will always be a “remainder”
 - The appraisal must consider the impact or consequences of the acquisition on the remainder
 - Damages
 - Benefits

Valuation

Interests Acquired:

- Fee-Simple
- Permanent Drainage Easement
- Permanent Slope Easement
- Temporary Construction Easement
- Air-Rights

ALL acquisitions MUST be paid for in accordance with their respective contribution to the whole.

Valuation

Eminent Domain Appraisal:

“A written statement, independently and impartially prepared by a qualified Appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.”

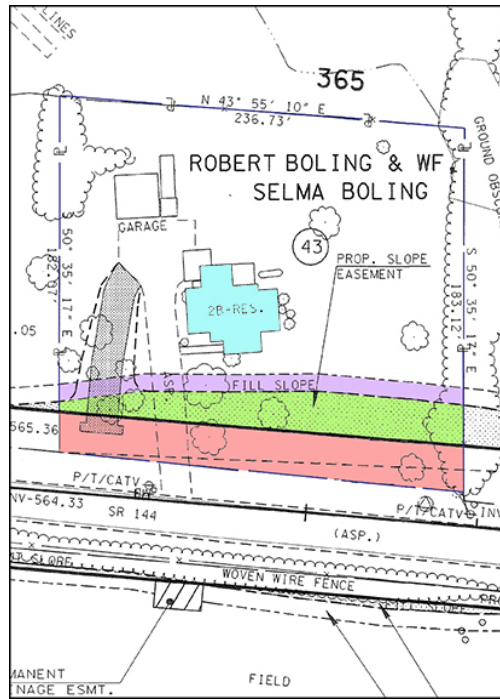
Valuation

Eminent Domain Appraisal:

- Must comply with USPAP, the Uniform Act and TDOT's Guidelines for Appraisers
- Types of Appraisal Reports
 - Appraisal Report (Required)
 - Restricted Appraisal Report (**Not Acceptable**)
- Types of Eminent Domain Appraisals
 - Formal
 - Formal, Part Affected

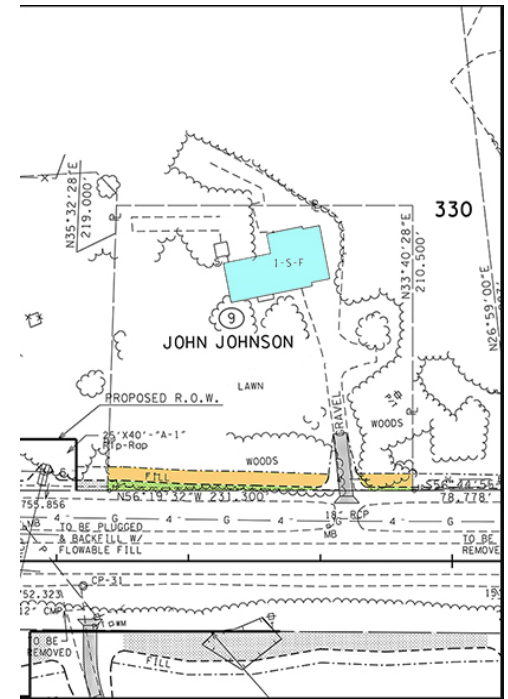
Valuation

What Type of Appraisal do we need?:



← Formal

Formal, Part Affected →



Valuation

Appraisal Review & Review Report:

- **MUST** comply with USPAP, Uniform Act & TDOT's Guidelines for Appraisers
- A review is not a "rubber-stamp" approval
- A review verifies that the appraisal report:
 - Is USPAP, Uniform Act & TDOT's Guidelines for Appraisers Compliant
 - Considers ALL aspects of the acquisition.
 - Can serve as the basis of a "GOOD FAITH" offer.

Valuation

Uneconomic Remainder:

- After a partial acquisition, the remaining portion of a tract which the acquiring agency has determined to have little or no value or utility to the owner
- Determined by Review Appraiser
 - Reported on Form 2
- Two Offers Made to Property Owner
 - To acquire only what is needed
 - To acquire the whole tract

Valuation

Uneconomic Remainder:



Valuation

Approved Offer (Form 2):

- Administrative document based on and supported by the approved appraisal
- Source document for the written offer (Form 17B-Offer to Acquire Real Property)
- Can be prepared by review appraiser or agency official but agency official **MUST** sign
 - MUST itemize and account for all acquisitions
 - MUST indicate damages and benefits
 - Contains explanatory notes for the negotiator

Valuation

Appraisal Waiver (aka Nominal Payment Parcel or NPP):

- The Appraisal Waiver is for use by agencies that have staff with knowledge of the local real estate market and real estate valuation for fair market value
- Acquisition is less than \$10,000
- Simple, Non-complex acquisition
 - Limited, basic improvements
 - No damages or benefits

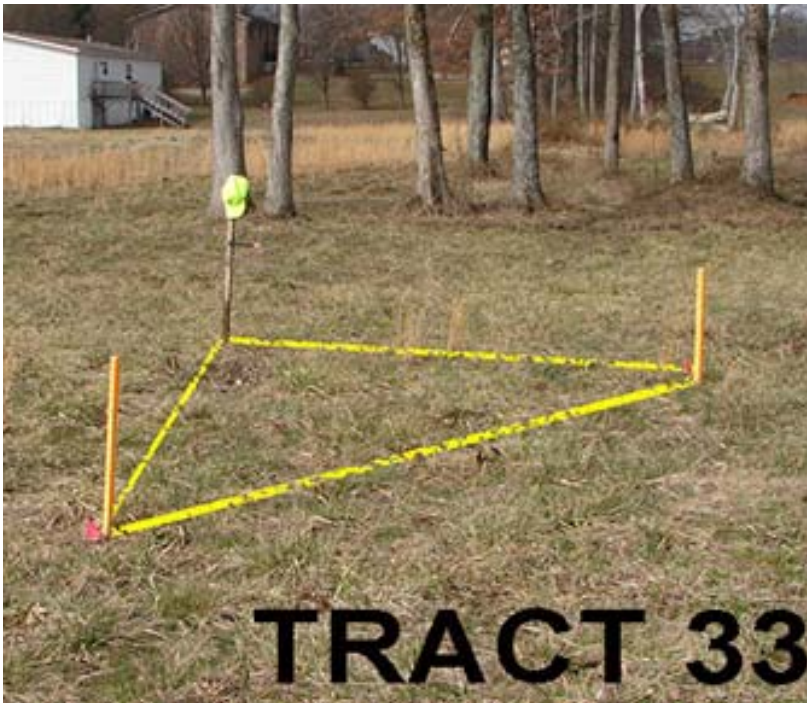
Valuation

Appraisal Waiver (aka Nominal Payment Parcel or NPP):

- Based on market sales data
 - Unit values should be consistent with tracts that have been appraised
 - Don't use Tax Assessment Values. They are NOT equal to Fair Market Value.
- Must be completed & signed by the LOCAL AGENCY OFFICIAL
- If negotiations are unsuccessful, an appraisal must be made, reviewed, and offered before a tract is eligible for condemnation
- \$300 is the minimum acceptable offer

Valuation

Appraisal Waiver (aka Nominal Payment Parcel or NPP):





Acquisition

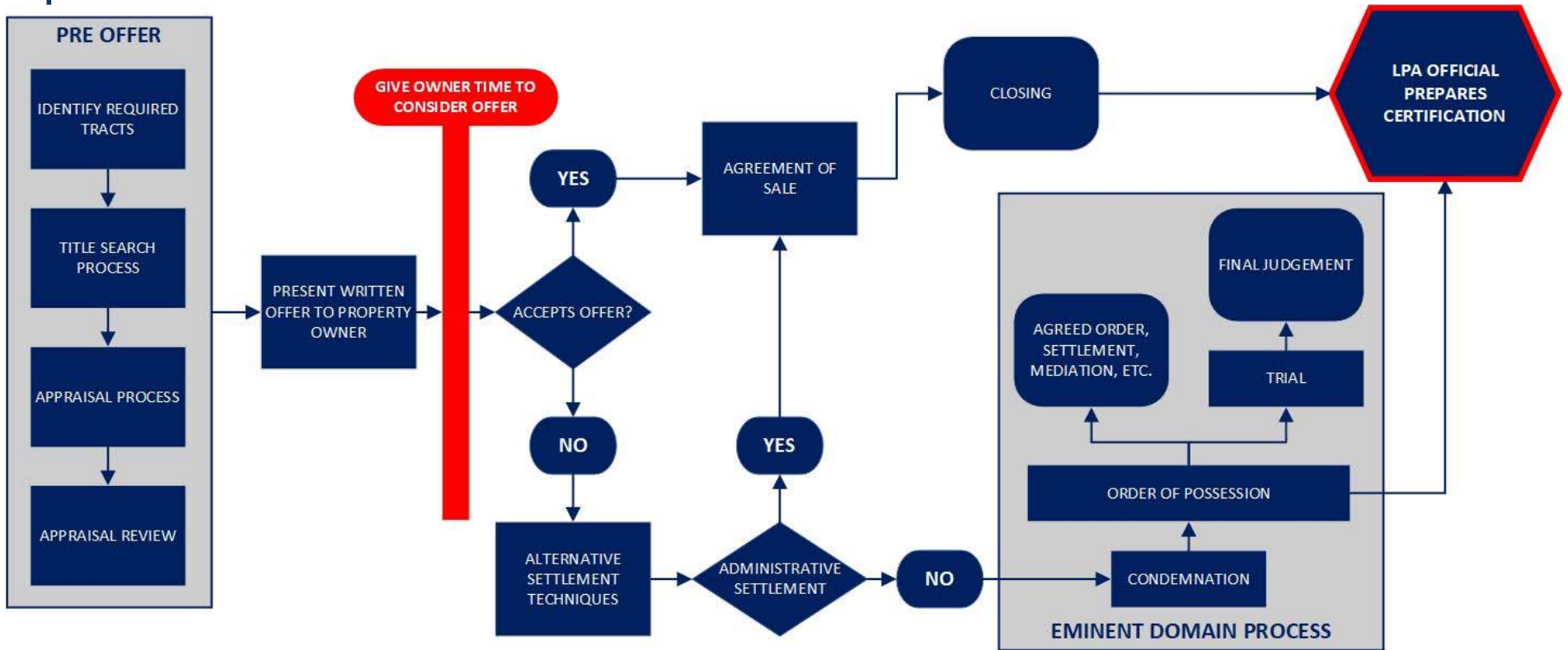
Acquisition

Module Objectives:

- Provide an overview of the land acquisition process, emphasizing that the Uniform Act and TDOT Right of Way procedures must be followed.
- Encourage discussion relating to the acquisition process.
- Answer questions relating to the acquisition of Right of Way

Acquisition

Acquisition Process:



Acquisition

Notice of Proposed Acquisition:

The acquiring agency is required to give written notification to those whose property is impacted by the project. The notice:

- Must describe the project
- Must identify the acquiring agency
- Must contain contact information
- Be delivered to landowner as early as possible

Acquisition

Personal Contact:

- Make all reasonable efforts to contact the property owner in person.
- Schedule meetings (both time & place) that are convenient to the property owner.
- Explain property acquisition process, including negotiations and Local Agency responsibilities.
- If property owner lives out of the general project area, contact may be made by mail.

Acquisition

Negotiator's Log:

A comprehensive record of all communication and interaction with property owners.

- Provides an accurate record of communication.
- Documents that the acquisition was done in an appropriate manner.
- Provides paper/audit trail of work completed on individual parcels by Local Agency staff.
- May be subject to open records laws, therefore should remain professional and free of irrelevant commentary.

Acquisition

Acquiring Property by Donation:

Gifts of real property by a private property owner.

- Landowner must be informed of their right to receive just compensation for the acquisition.
- Must acknowledge in writing that they have been informed of their right to receive just compensation and still wish to donate.
- Acquiring agency may exchange construction features for donations.

Acquisition

Written Offer:

- The offer to acquire right of way must be made in writing.
- The offer must itemize property interests and improvements to be acquired and the amount of compensation for each.
- Provide a tract map clearly indicating the area needed for the project.
- Provide a legal description of the area sought.

Acquisition

Opportunity to Consider Offer:

- Local Government must provide owners reasonable time to consider offer (30 day minimum is generally accepted)
- Eliminates any appearance of coercion.
- Provides owner opportunity to gather and present information that may affect determination of property's value.
- Local Government must consider any information brought forward by owner that was not considered during the appraisal period.

Acquisition

COERCION: Where is the line?

- Neither the amount of the offer nor the status of negotiations are to be discussed in a public forum until the tract has been acquired.
- Property owner cannot be told the project will not be built if they do not donate the property.
- Sunshine Rules will severely limit discussions open to the public regarding the acquisition progress of a project and specifics about the property owner's acquisitions.

Acquisition

Negotiation Points: What is negotiable?

- Price or offer amount:
 - Land Value
 - Damages
- Closing date
- Construction Modifications

Acquisition

When Negotiations Fail

Alternative Settlement Techniques

- Administrative Settlement:
 - Counteroffer (written)
 - Increase must be justified
- Eminent Domain (Condemnation)
 - Time Consuming
 - Litigation Costs

Acquisition

Administrative Settlement:

- If used, Administrative Settlements are made before invoking an agency's condemnation authority.
- Settlement offer is typically more than the approved offer of just compensation.
- Local Governments should consider administrative settlements when reasonable efforts to negotiate an acquisition have failed, but there appears to be a potential for agreement.

Acquisition

Basis for Administrative Settlement:

- All available appraisals, including the owner's.
- The approved estimate of Fair Market Value.
- Recent court awards for similar type properties.
- The negotiator's recorded information.
- The range of probable testimony as to Fair Market Value should condemnation be filed.
- The estimate of trial cost.
- The opinion of legal counsel, when appropriate.

Acquisition

Written Justification for Administrative Settlement:

- Must prepare a written justification outlining administrative increase.
- A discussion of available information that supports the increase.
- Cannot be approved by the negotiator, must be approved by appropriate, independent agency official.
- Must include an itemized breakdown of approved administrative settlement offer.

Acquisition

Eminent Domain vs. Condemnation:

Eminent Domain

- The legal doctrine that government has the power to acquire private land for public purposes.
- Governments invoke condemnation proceedings as a last resort.

Condemnation

- Legal process to invoke eminent domain.
- Conducted in a judicial venue.

Acquisition

Role of Legal Counsel:

- If condemning involves a State Route, the State Attorney General's office shall handle the case.
- Local Government needs to coordinate acquisition process activities with legal counsel.
- Once Local Government receives the order of possession, the case **MUST** be submitted to the State Attorney General for review before moving forward.

Acquisition

Payment Prior to Possession:

- Under condemnation, Local Government deposits an amount equal to the approved appraisal with the court.
- The Court Deposit may be withdrawn by the property owner without jeopardy.
- Owners are not required to surrender possession before payment is made available.

Acquisition

Inverse Condemnation:

A property owner may sue for damages to his property attributable to a project which, for whatever reason, was not properly taken as part of the project's right of way program.

For instance, a property owner who loses access to his property because of a new construction project may sue for damages.

Acquisition

Uneconomic Remnant:

An uneconomic remnant is the remaining portion of a partial acquisition that the agency determines to have little or no use or value to the present owner.

Agency will make two (2) offers:

1. Acquire the required area and pay damages to the remainder
2. Acquire the entire parcel

The agency **MUST** offer to purchase the uneconomic remnant. The owner will decide which offer to accept.

Acquisition

Right of Way Deeds:

All ROW deeds must follow the same basic format and include at the top of the first page:

- Tract Number
- State and Federal Project Numbers
- County Name
- Tax Map & Parcel Number

Acquisition

Right of Way Deeds:

Legal Description:

- All acquisitions on a tract must be described in the same deed.
- Metes & Bounds description for fee simple and permanent drainage easement (must include area)
- Construction easement must include duration and must match the offer.
- Slope and construction easements “...will be describes as completely as practical” (ROW Manual Ch. VIII, Part Two, VII)

Acquisition

Right of Way Deeds:

- Acquisition adjacent to State ROW must be purchases in the name of the State of Tennessee.
- If TDOT determines the project does not directly affect the roadway (State Route), then the ROW will be acquired in the name of the local agency.
- If the project does not directly affect the roadway (State Route), condemnation will be conducted by the local agency.

Acquisition

Right of Way Deeds:

- **Consideration** (amount paid) must be provided in a deed using State language (one paragraph)
- **Donations** must be acknowledged in a deed using State language (two paragraphs)
- Seller must positively acknowledge that they are waiving their right to compensation before donating

Acquisition

Right of Way Deeds:

- Online resources are available on the Local Programs website.
 - Standard language for deeds
 - Consideration
 - Easement descriptions
 - Format suggestions



Acquisition

The Closing Function:

- May not be closed by the negotiator
- Warranty Deeds must comply with TDOT guidelines
- Deeds must include a legal description that matches the plans
- Executed Deed must be recorded
- Local Government must:
 - Obtain necessary releases
 - Pay any pre-payment penalties
 - Collect pro-rated property taxes

Acquisition

Right of Way Certification:

- Local Government Official will certify to TDOT LPA Coordinator that all acquisition activities have been performed in accordance with the Uniform Act and TDOT Right of Way Procedures.
- Certification cannot be made until the Local Government has a Warranty Deed or Court Possession for all tracts.
- Acquisition of right-of-way for a State Route MUST be acquired in the name of the State.



Relocation

Relocation

Key Relocation Processes:

Planning

- Who will be displaced?
- What replacements are available?
- Concurrent displacement.
- Real vs. Personal
- Special problems.

Notices

- General information notice.
- Notice of Relocation Eligibility.
- 90-day vacate notice.

Advisory Services

- Personal Interview
- Explanation of benefits/services
- Needs of those being displaced.
- Referral to available property & services.
- **Keep a log!**

Payments

- Replacement Housing
- Moving Costs
- Reestablishment
- Fixed Payment

Relocation

Relocation Overview:

- **Everyone occupying** the property is presumed to be eligible for relocation services and benefits. (owners, tenants, business, farms, etc.)
- You must pay to move **personal property** located in the right-of-way.
- **Replacement housing** must be made available prior to requiring a residential occupant to vacate.
- **Everyone** is entitled to advisory assistance.

Relocation

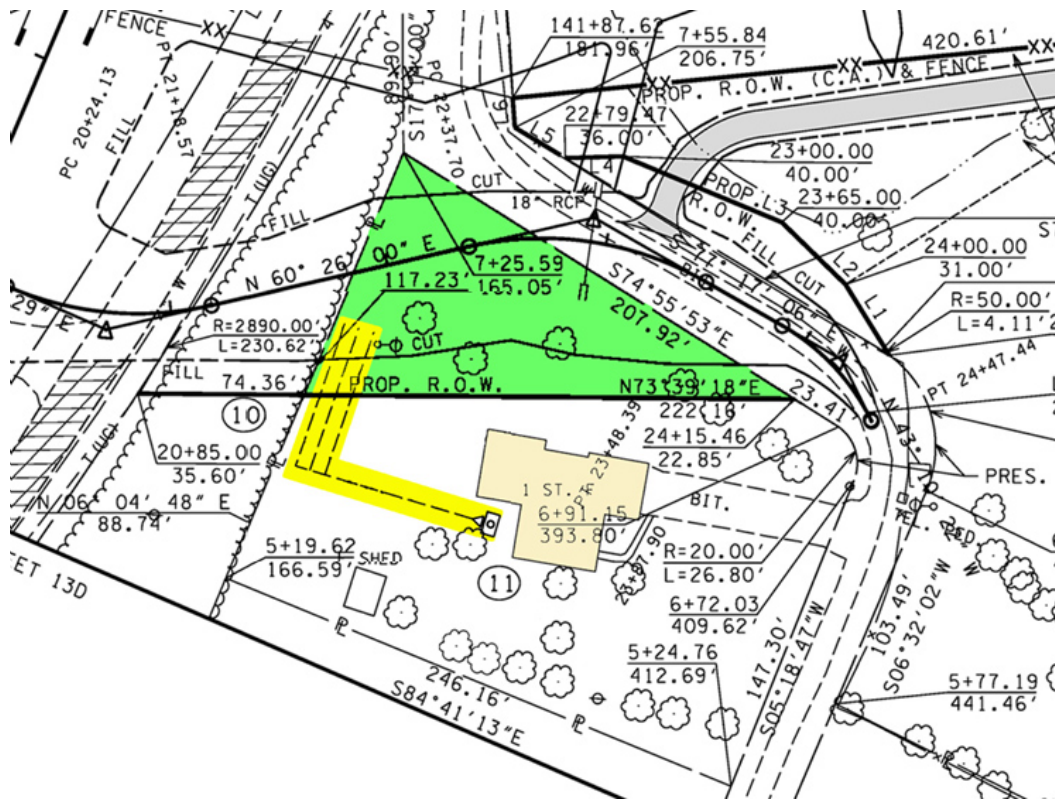
Who is a displaced person?

Any person who moves from the real property or moves his or her personal property from the real property as a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.

Paraphrased from 49 CFR §24.2(a)(9)



Relocation



Can you have a displaced person without the home being in the acquisition area?

- Septic System/Well
- Damages

Relocation

Required Relocation Notices:

- **General Information Notice** (RA Form 101)
 - Informs person that he/she may be displaced.
 - Informs person that aliens not lawfully present in the United States are ineligible for relocation benefits.
 - Informs person that they will have no less than 90-days to relocate (from the date of the offer/date of possession).
- **Notice of Relocation Eligibility** (RA Form 119)
 - Establishes eligibility for relocation benefits (Initiation of Negotiations).
 - No less than 90-days to relocate from date of possession.

Relocation

Required Relocation Notices:

- **Notice to Vacate** (RA Form 120)
 - Provides written notice of date that the property must be vacated
 - Delivered at or immediately after closing
 - Allows 90 days from the date of possession
 - Comparable housing must be available before notice can be enforced
 - May have “time to file” implications

Relocation

Residential Benefits (**Moving Costs**):

- **Commercial Move**

- Offer based on lower of two (or more) estimates
- Payment must be supported by receipt or invoice.
- Move must be performed by a licensed commercial mover

- **Self Move**

- Offer based on room count and published schedule
- No receipts required and it does not matter who performs the move.

Relocation

Residential Benefits (**Replacement Housing**):

- **Replacement Housing Payment**(**O**wner/**T**enant)
 - Purchase (\$31,000(**O**)) or Rent (\$7,200(**O/T**)) Supplement
 - Down Payment Supplement (\$7,200(**T**))
 - Last Resort Housing (**O/T**)
- **Incidental Expenses** (**O**)
 - Costs related to purchase of replacement housing: Appraisal, Deed, Recording, Closing fees, etc.)
 - Variable costs may be pro-rated
- **Increased Interest** (**O**)

Relocation

Non-Residential Benefits:

Actual Moving Cost

- Packing, unpacking, moving
- Disconnect/reconnect
- Insurance, licenses, permits, etc.
- Professional services
- Re-lettering signs, exterior signage
- Direct Loss/substitute property
- Searching Expenses (\$2,500)
- Studies, Impact Fees, & Other Items

&

Reestablishment expense

- Capped at \$25,000
- No capitol Improvements.
- Code required improvements or modifications
- Utility Charges
- Repair/replacement of worn surfaces
- Advertisement
- Increased costs of business
- Other items

OR

Fixed Payment (in lieu of)

- Lump sum payment in lieu of actual moving cost and reestablishment payments
- Average income from previous two years
- **\$1,000-\$40,000**

Relocation

Non-Residential Benefits:

Fixed Payment Example

Moving Cost		Reestablishment Expense		Maximum Benefit
\$6,500	+	\$25,000	=	\$31,500

2018 Net Income		2019 Net Income		Fixed Payment
\$37,500	+	\$42,000	/2 =	\$39,750



**Property
Management**

Property Management

Hazardous Materials Concerns:

Pre-Acquisition:

- (Phase I) Preliminary Assessment – *Identification*
- (Phase II) Preliminary Site Investigation – *Determine nature of Contamination*
- (Phase III) Hazardous Waste Management Plan – *Cost/Benefit Analysis*
- (Phase IV) Remediation – *Clean up*

Post-Acquisition:

- Asbestos Testing

Property Management

Post Acquisition:

- Short Term Rental
 - Available only to property owner
 - Based on appraised value
 - May cause delays in construction
- Protect vacated acquired improvements against vandalism and theft.
- Maintenance of acquired Right of Way
 - Mowing
 - Rodent Control
 - Trash Removal

Property Management



Property Management



Property Management



Property Management

Post Acquisition/Clearance of Right of Way:

- Item of Construction
 - Increases Construction Cost
 - No direct Demolition Cost/No Administrative Costs
- Owner Retention
 - Opportunity only offered to Property Owner
 - Salvage value based on appraised value of salvable improvements
 - Performance deposit
 - Reduces project demolition costs/ adds administrative costs
 - Time critical, may cause delays in construction

Property Management

Post Acquisition/Clearance of Right of Way:

- Public Sale
 - Sealed Bids or Auction Format
 - Decreased Project Demolition/Increased Administrative Costs
 - May Cause Construction Delays
- Demolition Contract
 - Increased Demolition/Increased Administrative Costs
 - Must Follow Contracting Procedures
 - May Cause Construction Delays



®

Utilities & Railroads

Utilities & Railroads

Early Notification (First Notice):

- Send to all utilities in project vicinity
- Utilities have 60 Days to respond



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

RIGHT OF WAY DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

DATE: Month ##, ####

UTILITY NAME
ATTN: Contact Name
TYPE OF UTILITIES
Utility Address
PHONE: FAX: EMAIL:

NOTE: Please send any changes to this information that need to be corrected.

PIN#, **Project Type** – Project Type of Work; State Route; US Route; Termini; Federal Project
No.: ##-##-###(##); State Project No.: #####-####-##; in County

The enclosed map and/or the above description give the location of the proposed project. In accordance with the provisions of TCA SECTION 54-5 851, Section 3 of Public Chapter No. 517 of Public Acts of 1988. You are hereby given notice of the pending construction of this project.

This bill requires that the utility owner must notify the Tennessee Department of Transportation within (60) days whether or not it is the owner of utility facilities within the area of the project and if so, the type of utility service, description and general location of each such facility. This information must be furnished to the below listed address by the utility.

Please reply, promptly, using the COMPLETE ADDRESS LISTED BELOW.


TDOT: Right of Way/ Utilities
ATTN: _____
Address: Suite 600 JK Polk Building
Nashville, TN 37243-0337
(Phone): _____
(Fax): _____
(Email): _____

Enclosure: Map

Please check one: DOES DOES NOT own facilities within the area of this project.
SIGNATURE: _____
TITLE: _____
DATE: _____
Please provide a Contact E-mail address: _____
Please return this form as soon as possible to ensure your company has complied with the state law

Utilities & Railroads

- Early Notification (Second Notice):
 - Goes to utilities not responding to first notice.
 - Utilities have 10 days to respond.



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

DATE: Month ##, ####

UTILITY NAME
ATTN: Contact Name
TYPE OF UTILITIES
Utility Address
PHONE: FAX: EMAIL:

NOTE: Please send any changes to this information that need to be corrected.

PIN#, Project Type – Project Type of Work; State Route; US Route; Termini; Federal Project No.: ##-##-##(##); State Project No.: #####-####-##; in County

Reference is made to the notice, which was sent to you on DATE SENT advising you of the pending construction of the above described project. In accordance with the provisions of section 3 of Public Chapter No.517 of the Public Acts of 1988, you are hereby giving the SECOND and FINAL NOTICE of the pending construction of this project.

This bill requires that the utility owner must notify the Tennessee Department of Transportation within (10) days whether or not it is the owner of utility facilities within the area of the project and if so, the type of utility service, description and general location of each such facility. This information must be furnished to the below listed address by the utility.

The Failure of an owner to comply with the above shall create a presumption that it is not such an owner and the Department and its Contractor may then undertake construction without liability to such owner for damage to the owner's utility facilities, and in addition, such owner shall be liable to the Department's Contractor for damages resulting from such failure.

Please reply, promptly, using the COMPLETE ADDRESS LISTED BELOW.

TDOT: Right of Way/ Utilities
ATTN: _____
Address: Suite 600 JK Polk Building
Nashville, TN 37243-0337
(Phone): _____
(Fax): _____
(Email): _____

Enclosure: Map

Please check one: DOES DOES NOT own facilities within the area of this project.

SIGNATURE: _____

TITLE: _____

DATE: _____


Please provide a Contact E-mail address: _____

Please return this form as soon as possible to ensure your company has complied with the state law

Utilities & Railroads

What if the utility still has not responded?

- May presume utility is not an owner on the project
- Contractor may undertake project w/o liability to owner for damages
- Owner liable to contractor for damages
- See TCA 54-5-853 for add'l info


STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY DIVISION
SUITE 600, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3196

BILL HASLAM
GOVERNOR

JOHN C. SCHROER
COMMISSIONER

DATE: Month ##, ####

UTILITY NAME
ATTN: Contact Name
TYPE OF UTILITIES
Utility Address
PHONE: FAX: EMAIL:

NOTE: Please send any changes to this information that need to be corrected.

PIN#, Project Type – Project Type of Work; State Route; US Route; Termini; Federal Project No.: ##-##-##(##); State Project No.: #####-####-##; in County

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(Fax): _____
(Email): _____

Enclosure: Map

Please check one: DOES DOES NOT own facilities within the area of this project.

SIGNATURE: _____

TITLE: _____

DATE: _____

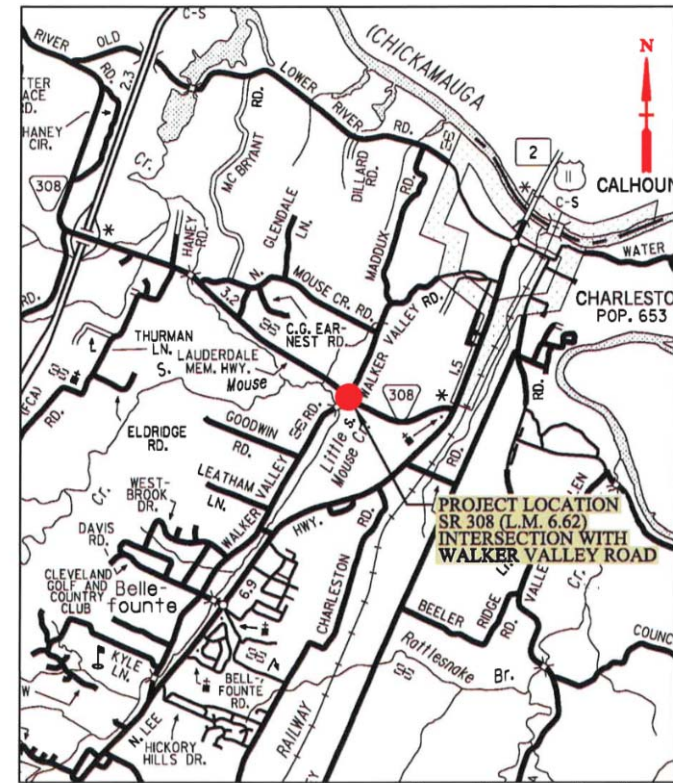
Please provide a Contact E-mail address: _____

Please return this form as soon as possible to ensure your company has complied with the state law

Utilities & Railroads

Early Notification must include a map

Bradley County
State Route 308
Intersection with Walker Valley Road, L.M. 6.622
PIN 121615.01



Source: TDOT County Maps (Bradley)

PROJECT LOCATION MAP
SCALE: 1"=4000'

Utilities & Railroads

Federal Rules and Regulations (23 CFR Part 645):

- Authorizations
- Compensable costs
- Preliminary Engineering
Consultant Engineering
- Betterment
- Relocation / Removal / Salvage
- Eligible items for reimbursement
- Developing and Recording Actual Cost
 - Labor Costs
 - Overhead & indirect costs
 - Material & Supply costs
 - Equipment Costs
 - Transportation Costs
- Replacement utility easement/ROW
- Agreements / Contracts



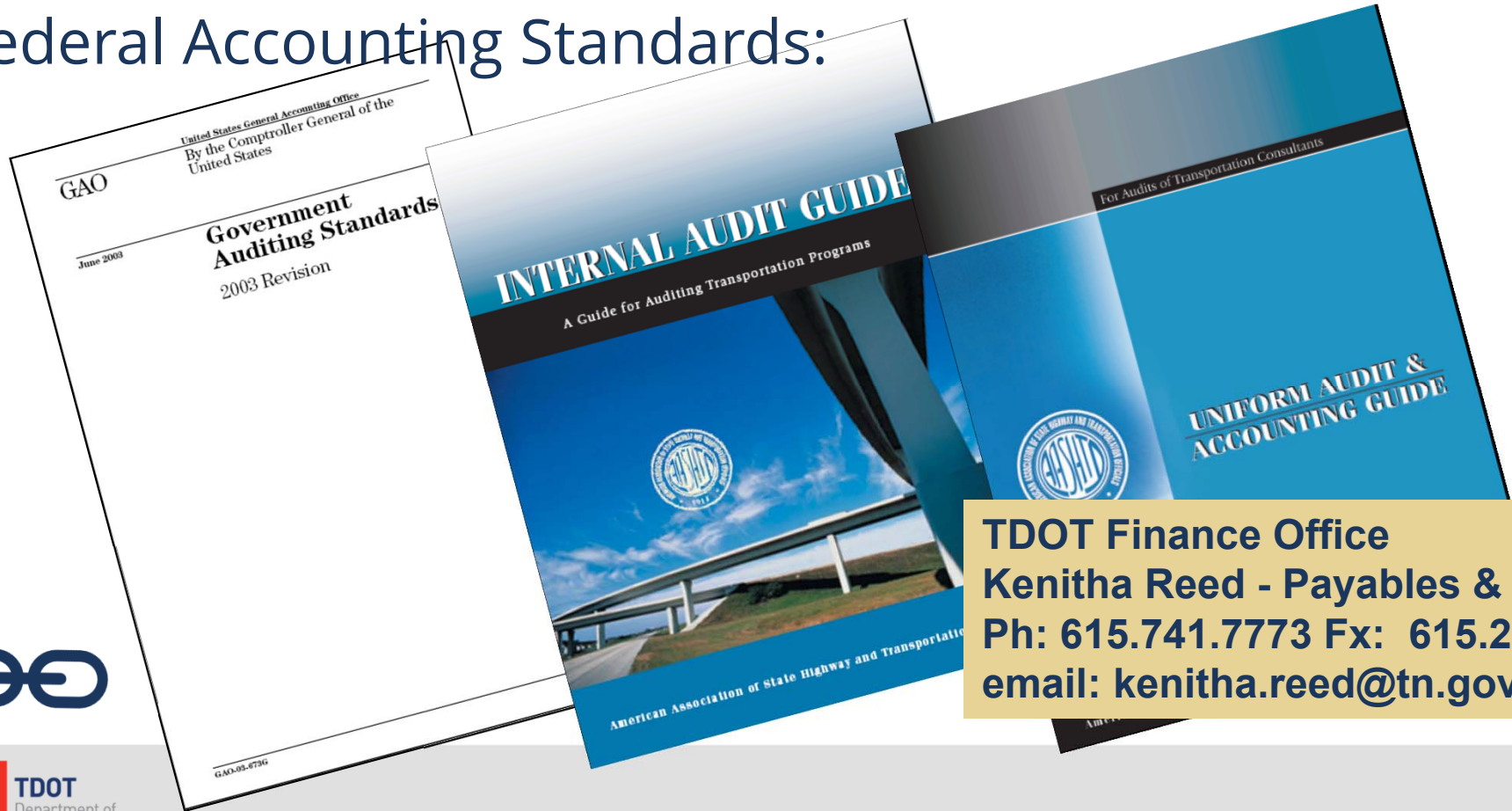
Utilities & Railroads

Reimbursements:

- Reimbursement of Utility Relocation
 - Chapter 86: Reimbursement of utilities that occupy existing public right-of-way.
 - Constitutional: Reimbursement of utilities located outside of public right-of-way.
- Reimbursement involving Railroads

Utilities & Railroads

Federal Accounting Standards:



TDOT Finance Office
Kenitha Reed - Payables & Audit
Ph: 615.741.7773 Fx: 615.253.4274
email: kenitha.reed@tn.gov



Utilities & Railroads

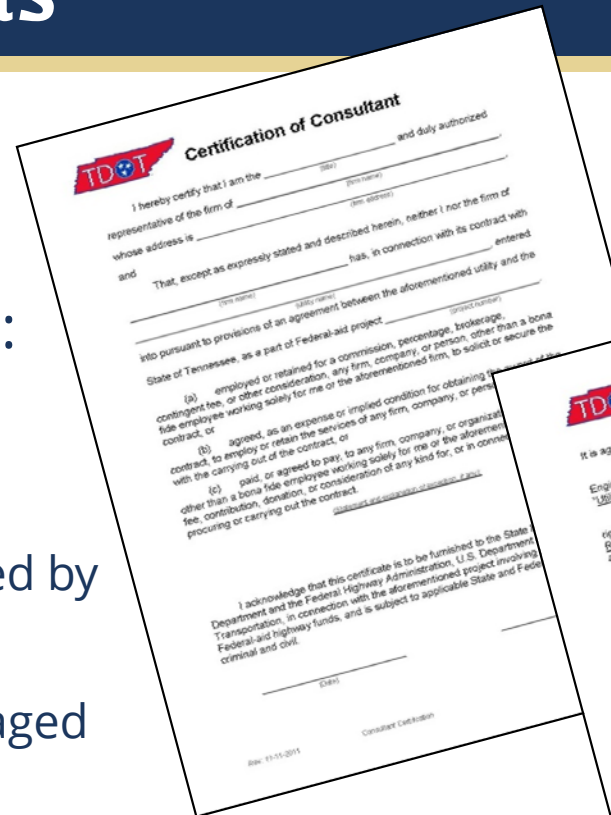
Accounting Standards:

- Engineering estimate of cost
- Engineering overhead cost
- Engineering Profit
- Prequalified Consultant by TDOT
- Disbarred list State / Federal
- Utility Estimate of cost
- Utility overhead cost
- Utility contracting methods
- Utility billing

Utilities & Railroads

Consultant Engineering Forms:

- Must contain specific, required provisions
- Administrative documents provided by TDOT (modify as needed)
- Local Agency Legal review encouraged



TDOT Certification of Consultant

I hereby certify that I am the _____ and duly authorized representative of the firm of _____ whose address is _____ and _____ That, except as expressly stated and described herein, neither I nor the firm of _____ has, in connection with its contract with _____ entered into pursuant to provisions of an agreement between the aforementioned utility and the State of Tennessee, as a part of Federal-aid project _____

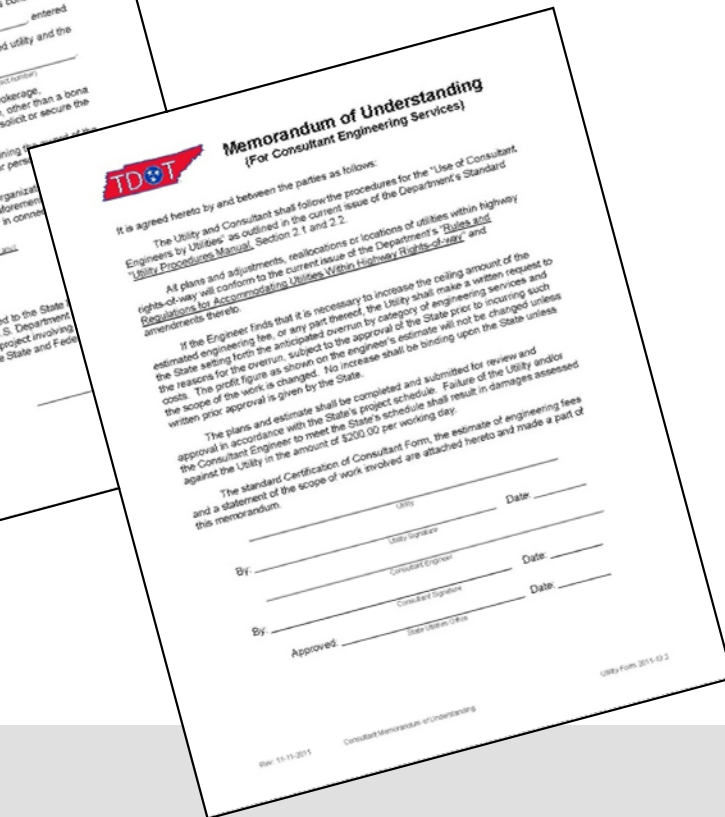
(a) employed or retained for a commission, percentage, brokerage, fee, or other consideration, any firm, company, or person, other than a bona fide employee working solely for me or the aforementioned firm, to solicit or secure the contract, or

(b) agreed, as an expense or implied condition for obtaining the contract, to employ or retain the services of any firm, company, or organization with the carrying out of the contract, or

(c) paid, or agreed to pay, to any firm, company, or organization other than a bona fide employee working solely for me or the aforementioned firm, fee, commission, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

I acknowledge that this certificate is to be furnished to the State Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with the aforementioned project involving Federal-aid highway funds, and is subject to applicable State and Federal criminal and civil.

Rev. 11-11-2011 Consultant Certification



TDOT Memorandum of Understanding (For Consultant Engineering Services)

It is agreed hereto by and between the parties as follows:

The Utility and Consultant shall follow the procedures for the "Use of Consultant Engineers by Utilities" as outlined in the current issue of the Department's Standard "Utility Procedures Manual," Section 2.1 and 2.2.

All plans and adjustments, relocations or locations of utilities within highway rights-of-way will conform to the current issue of the Department's "Rules and Regulations for Accommodating Utilities Within Highway Rights-of-Way" and amendments thereto.

If the Engineer finds that it is necessary to increase the ceiling amount of the estimated engineering fee, or any part thereof, the Utility shall make a written request to the State setting forth the anticipated overrun by category of engineering services and the reasons for the overrun, subject to the approval of the State prior to incurring such costs. The profit figure as shown on the engineer's estimate will not be changed unless the scope of the work is changed. No increase shall be binding upon the State unless written prior approval is given by the State.

The plans and estimate shall be completed and submitted for review and approval in accordance with the State's project schedule. Failure of the Utility and/or the Consultant Engineer to meet the State's schedule shall result in damages assessed against the Utility in the amount of \$200.00 per working day.

The standard Certification of Consultant Form, the estimate of engineering fees and a statement of the scope of work involved are attached hereto and made a part of this memorandum.

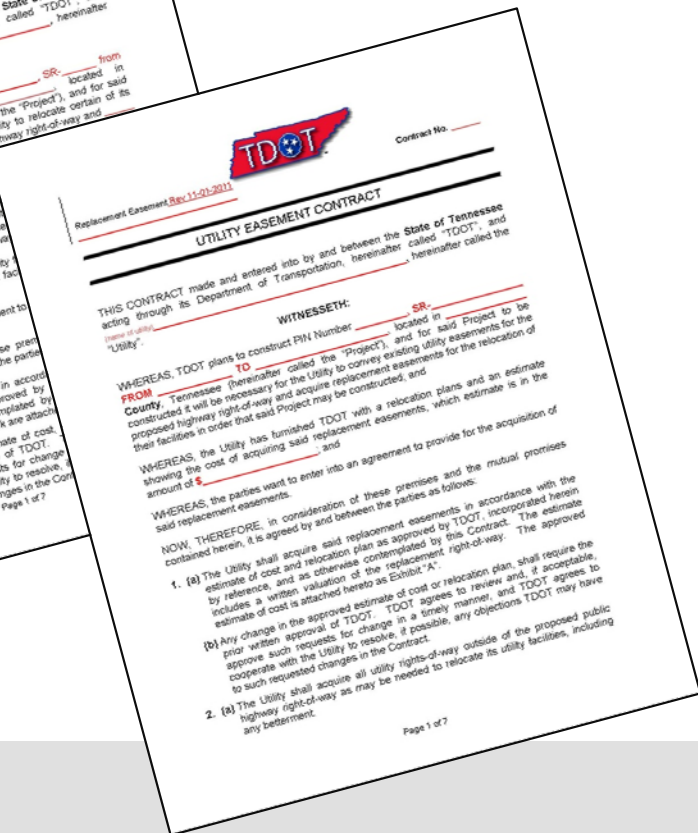
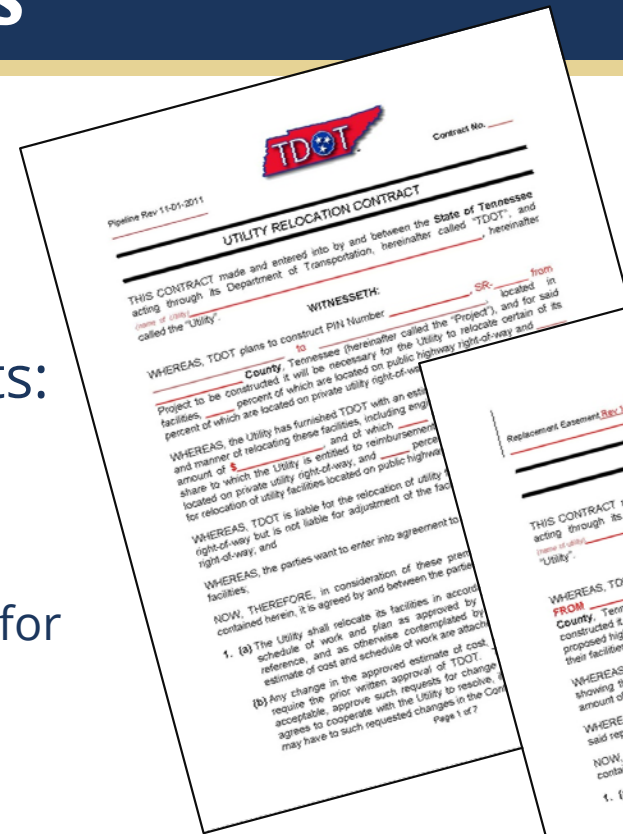
By: _____ Utility Signature Date: _____
By: _____ Consultant Engineer Signature Date: _____
Approved: _____ State Representative Signature Date: _____

Rev. 11-11-2011 Consultant Memorandum of Understanding Utility Form 2011-02

Utilities & Railroads

Utility Reimbursement Contracts:

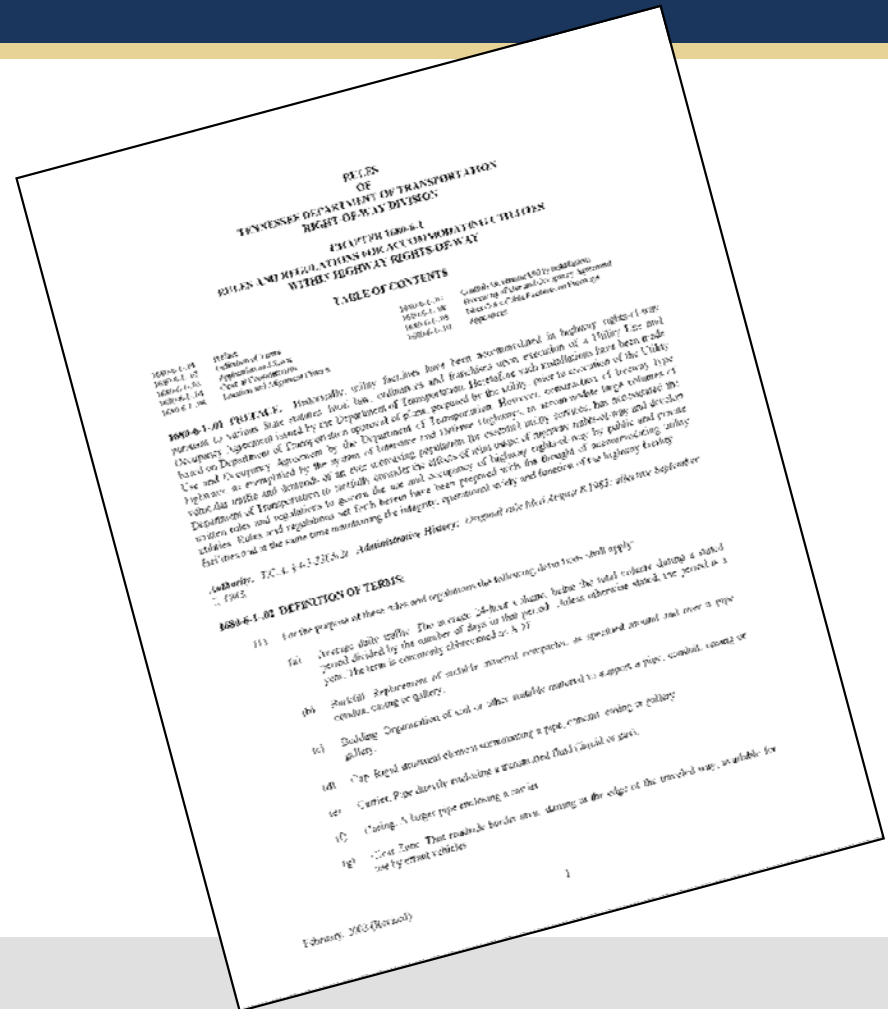
- Must contain specific, required provisions
- TDOT contracts provided as a basis for local agency contracts



Utilities & Railroads

TDOT Rules & Regulations for Utility Accommodation:

- CHAPTER 1680-6-1
- Promulgated and approved by FHWA in accordance with 23 CFR 645 Part B
- Installation of operational utility facilities within state Right of Way



Utilities & Railroads

Design Standards:

- Local agency responsible for review and approval of utility relocation plans
 - Federal Rules
 - Geometric design standards
 - Traffic control standards



Utilities & Railroads

Local Review Checklist:

- ROW Plans sent to all utilities known on project.
- The utilities are provided 120 days to respond w/location.
- Utility approved to use consulting Engineering Firm:
Approved request forms
Approved overhead rate; Approved Profit; Approved cost
Authorized Engineering

Utilities & Railroads

Local Review Checklist (cont.):

- Utility submits relocation of conflicts:
 - a) Location (rainbow) plans
 - b) Estimate of cost for compensation
 - c) Schedule of Calendar daysApproved plans; Approved overhead rate; Approved Cost
Approved Calendar Schedule
Reviewed TDOT permit for occupation of State ROW if applicable
Authorized utility relocation
- Invoices
Review and approve Relocation ACTUAL cost

Utilities & Railroads

State System/ROW Requirements:

- Projects on **State System Routes** will be required to meet TDOT Rules and Regulations for Accommodating Utilities within Highway ROW (1680-6-1)
Projects on **Local Agency System** will be subject to any Rules and Regulations the Local Agency maintains. The Local Agency will be required to document to TDOT that a variance from State rules was allowed and cite any local agency rules that apply.
- Projects on **State System Routes** will be required to notify utilities & railroads during project development to solicit comments on potential conflicts. (TCA 54-5-853)
- Projects on **State System Routes** will be required to provide right-of-way plans to utilities & railroads, requesting that relocation plans, estimates, and work schedules be submitted within 120 days after receipt. (TCA 54-5-854)
- Projects on **State System Routes** will be required to provide revisions to the right-of-way to utilities & railroads, requesting that revised relocation plans, estimates, and work schedules be submitted within 45 days after receipt. (TCA 54-5-854)

Utilities & Railroads

Railroad Coordination:

Utilities & Railroads

Railroad Coordination:

STEP 1: Review the Railroad portions of the LPA and Utility
 Manuals

Utilities & Railroads

Railroad Coordination:

- STEP 1: Review the Railroad portions of the LPA and Utility Manuals
- STEP 2: Contact the Railroad Coordination Office

Utilities & Railroads

Railroad Coordination:

State Railroad Coordinator

Mr. Jay Lanius

O. 615.253.1106

E. Jay.Lanius@tn.gov

Regions 1 & 2

Mr. Ethan Messimore, P.E.

O. 615.253.2563

E. Ethan.Messimore@tn.gov

Regions 3 & 4

Mr. Eric Flora, P.E.

O. 615.253.1683

E. Eric.Flora@tn.gov

Utilities & Railroads

Railroad Coordination:

- STEP 1: Review the Railroad portions of the LPA and Utility Manuals
- STEP 2: Contact the Railroad Coordination Office
- STEP 3: PE Agreement and PE Force Account Estimate (FAE)

Utilities & Railroads

Railroad Coordination:

- STEP 1: Review the Railroad portions of the LPA and Utility Manuals
- STEP 2: Contact the Railroad Coordination Office
- STEP 3: PE Agreement and PE Force Account Estimate (FAE)
- STEP 4: Property Research (Fee-simple vs. Easement)

Utilities & Railroads

Railroad Coordination:

- STEP 1: Review the Railroad portions of the LPA and Utility Manuals
- STEP 2: Contact the Railroad Coordination Office
- STEP 3: PE Agreement and PE Force Account Estimate (FAE)
- STEP 4: Property Research (Fee-simple vs. Easement)
- STEP 5: Iterative Plan Reviews

Utilities & Railroads

Railroad Coordination:

- STEP 1: Review the Railroad portions of the LPA and Utility Manuals
- STEP 2: Contact the Railroad Coordination Office
- STEP 3: PE Agreement and PE Force Account Estimate (FAE)
- STEP 4: Property Research (Fee-simple vs. Easement)
- STEP 5: Iterative Plan Reviews
- STEP 6: SP105C Creation

Utilities & Railroads

Railroad Coordination:

STEP 7: No further exceptions to the plans email

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C
- STEP 9: Construction FAE

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C
- STEP 9: Construction FAE
- STEP 10: Construction Agreement Execution

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C
- STEP 9: Construction FAE
- STEP 10: Construction Agreement Execution
- STEP 11: Submission Package to Regional Utility Coordinator

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C
- STEP 9: Construction FAE
- STEP 10: Construction Agreement Execution
- STEP 11: Submission Package to Regional Utility Coordinator
- STEP 12: Certification

Utilities & Railroads

Railroad Coordination:

- STEP 7: No further exceptions to the plans email
- STEP 8: Acceptance of SP105C
- STEP 9: Construction FAE
- STEP 10: Construction Agreement Execution
- STEP 11: Submission Package to Regional Utility Coordinator
- STEP 12: Certification

ICRR Projects are handled a little differently

Utilities & Railroads

Utility Certification:

- Documentation Accommodation of Utilities on ROW:
 - a) Utilities comply with TDOT Rules & Regulation.
 - b) Local Agency approved variance from TDOT Rules & Regs
 - c) Utilities comply with TDOT Rules & Regs
 - d) Utilities comply with Clear Zone requirements.
 - e) Utilities issued by TDOT Permit for installations on State ROW
- Date Utilities/Railroads first notified of project.
- Dates of all project development meetings where Utilities/Railroads were invited to comment on plan development.

Utilities & Railroads

Utility Certification:

- Date Utilities/Railroads provided project right-of-way plans and/or revisions. (45 Days provided for response to revisions)
- Date Utilities/Railroad returned relocation plans, estimates, & work schedules for relocation of conflicts. (Min.120 Days)
- Documentation project complied with Federal Rules & Regulations regarding utility reimbursement and Federal Accounting standards for cost estimates.

Utilities & Railroads

Utility Certification:

- Documentation on all identified Utilities/Railroads contacted for coordination on the project:
 - a) Utilities contacted which have No Facilities on project.
 - b) Utilities contacted that have No Conflict on the project.
 - c) Utilities contacted that will relocate at No Cost to project.
 - d) Utilities contacted that have executed contracts for the Reimbursement of cost to the project.
(Contracts for Reimbursement)
- Local Agency can expect that TDOT will audit the project for compliance.