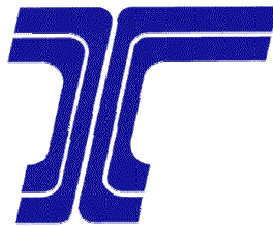


**ODOT**

**Right of Way & Rail/Utility Coordination**

**CONTRACTOR SERVICES GUIDE**



**Oregon Department of Transportation**

[www.oregon.gov/odot/hwy/row](http://www.oregon.gov/odot/hwy/row)

**Oregon Department of Transportation  
RIGHT OF WAY & RAIL/UTILITY COORDINATION  
CONTRACTOR SERVICES GUIDE**

## TABLE OF CONTENTS

SECTION	PAGE
I. Right of Way Services Administration	3
II. Access Management	5
III. Right of Way Engineering	5
IV. Right of Way Cost Estimating and Programming	10
V. Title	10
VI. Appraisal and Appraisal Review	11
VII. Negotiation	13
VIII. Relocation	14
X. Settlement/Condemnation	15
XI. Closings	16
XII. Certification	17
XIII. Taking Possession	17
XIV. Utility and Railroad	18
XV. Property Management	23
XVI. Disposals	24
Attachment A	26

**Oregon Department of Transportation  
RIGHT OF WAY & RAIL/UTILITY COORDINATION  
CONTRACTOR SERVICES GUIDE**

## **I. RIGHT OF WAY SERVICES ADMINISTRATION**

The prime contact for Contractor will depend on the contract. Under a Flexible Services Contract with the Agency, the prime contact will be the Region Right of Way Manager. Under other contracts, such as OTIA, administered by the Alternate Delivery Unit, the prime contact will be the Consultant Project Manager (CPM). Regardless of the prime contact, all R/W deliverables will be given by the Contractor to the Region Right of Way Manager or designee. All approvals regarding R/W issues will be provided by the Region Right of Way Manager or a designee.

Prior to initiating any Right of Way work included in these specifications, the Contractor shall contact the appropriate Region Right of Way Manager or designee to schedule and attend a kickoff meeting to discuss the services to be provided by the Contractor under the contract for the Project. This is to be arranged through the prime contact as described above.

Contractor shall provide a minimum of seven Calendar Day's notification to the selected meeting attendees and include time, location, and agenda for meeting. Contractor shall keep the minutes of meeting and distribute to meeting attendees within 14 Calendar Days. At R/W Services kickoff meeting, Agency will provide Contractor with appropriate format for submission of the information for the R/W Tracking System, RAIN.

The geographic location of the project will determine which Regional Right of Way Manager will be the contact person for the project. Managers responsible for ODOT Regional Right of Way offices statewide are as follows:

Region 1 Right of Way Office (Portland Metropolitan Area)  
**Darlene Rose**, Manager, 123 NW Flanders, Portland, OR 97209  
Phone: 503-731-8400 FAX: 503-731-8458

Region 2 Right of Way Office (Willamette Valley, North and Central Coast, Western Cascades)  
**Joe Gray**, Manager, 455 Airport Rd SE, Bldg. A, Salem, OR 97301-5397 Phone: 503-986-2601 FAX: 503-986-2622

Region 3 Right of Way Office (Southwestern Oregon)

**Gary Taylor**, Manager, 3500 NW Stewart Parkway, Suite 164, Roseburg, OR 97470 Phone: 541-957-3559 FAX: 541-957-3563

Region 4 Right of Way Office (Central Oregon)

**David Brown**, Manager, 63085 N Hwy 97 – Suite 102, Bend, OR 97701  
Phone: 541-388-6196 FAX: 541-388-6381

Region 5 Right of Way Office (Eastern Oregon)

**Stephanie Anderson**, Acting Manager, 3012 Island Avenue,  
La Grande, OR 97850  
Phone: 541-963-7552 FAX: 541-962-9819

Utility Issues (Statewide)

**Heather Howe**, State Utility Liaison, 355 Capitol Street NE, Room 420, Salem, OR 97301 Phone: 503-986-3658 FAX: 503-986-3625

Railroad Issues (Statewide)

**Zack Hunter**, Railroad Utility Liaison 355 Capitol Street NE, Room 420, Salem, OR 97301 Phone: 503-986-3657 FAX: 503-986-3625

Right of Way Engineering Issues (Statewide)

**Scott Morrison**, Right of Way Engineering Lead 355 Capitol Street NE, Room 222, Salem, OR 97301 Phone: 503-986-3672 FAX: 503-986-3749

### **General Requirements**

Contractor is required to comply with the current versions of ODOT's "*Right of Way Manual*" and "*Guide to Appraising Real Property For Use in State Transportation Projects*", ORS 35, with reference to the "*Uniform Appraisal Standards for Federal Land Acquisitions*", with ODOT's "*Right of Way Engineering Manual*".

Contractor shall utilize all forms, spreadsheets, brochures and pamphlets referenced in the ODOT's Right of Way Manual. These forms, spreadsheets, brochures and pamphlets shall not be altered. They may be obtained through the Region Right of Way Manager or designee prior to the kickoff meeting described above or on-line at: <http://www.oregon.gov/ODOT/HWY/ROW>

Contractor shall ensure that a Quality Assurance/Quality Control (QA/QC) program is in place to monitor report on, and assure the quality of the product delivered to ODOT.

Contractor shall track status for all parcel files to be acquired for R/W purposes. Contractor shall update the Agency's R/W Automated Information Network database (RAIN) at least every two weeks, monitoring the status of data collection, storage, management, reporting and tracking of Project R/W work.

Contractor should coordinate the details of this process with the Region Right of Way Manager at the project kickoff meeting.

If ODOT determines that any deliverables are not acceptable and that any deficiencies are the responsibility of the Contractor, ODOT shall prepare a detailed written description of any deficiencies and an associated time frame for correction, and deliver such notice to Contractor. Contractor shall correct any deficiencies at no cost to the ODOT.

## II. ACCESS MANAGEMENT

Contractor shall coordinate with ODOT's local District Office for any closure of an approach road, with a legal Permit. Upon notice to property owner from District Office that permit will be revoked, Contractor shall, in consultation with Region Right of Way Manager, determine for each access being closed if an administrative remedy is appropriate and feasible in accordance with OAR 734-051-0510 through 0560. If it is, Contractor shall then propose an administrative remedy and submit it to Region Right of Way Manager for review and submission to Appraisal Review for approval. Upon approval from Right of Way, Contractor shall make a written offer of remedy to property owner using Right of Way Section's approved forms. Upon acceptance of remedy by property owner, Contractor shall submit approved form to Region Right of Way Manager for review and payment. If a remedy is not warranted, Contractor shall document determining factors in writing to the Region Right of Way Manager. Contractor shall consult with ODOT's Region Right of Way Manager for details about administrative remedy process and for correct procedure in the event the property owner does not accept remedy.

## III. RIGHT OF WAY ENGINEERING

All of the Right of Way (R/W) Engineering work done by the Contractor shall be performed under the direction and supervision of the Contractor's professional land surveyor (PLS) who is registered in the State of Oregon. All Right of Way Engineering products shall be produced according to the guidelines of ODOT's Right of Way Engineering Manual. The manual is available on ODOT's ftp site at the following location:

[http://www.oregon.gov/ODOT/HWY/GEOMETRONICS/ROW\\_Eng/RW\\_Manual/RW\\_Eng\\_Manual.pdf](http://www.oregon.gov/ODOT/HWY/GEOMETRONICS/ROW_Eng/RW_Manual/RW_Eng_Manual.pdf)

### A. SOFTWARE STANDARDS

#### **CURRENT SOFTWARE**

Software standards used by the Agency are specified below. Agency's *Windows NT* platform has been upgraded to *Windows XP Professional*\*.

Bentley Systems, <i>MicroStation (V8) – Drafting</i> *
Bentley Systems, <i>Bentley InRoads (Version 8) – Road Design</i> *
Microsoft <i>Office Suite (Word, Excel, PowerPoint, etc.)</i> *

\* Or current ODOT standard

Contractor shall commit to delivering all work products in the format(s) required by the Agency.

B. SOFTWARE COMPATIBILITY

Contractor's software shall produce deliverables that are fully compatible, readable and useable by Agency software, requiring no modification or translation of the Contractor's deliverables. No loss of data integrity or accuracy shall result from any transfer of data. Agency reserves the right to reject deliverables that do not meet requirements. If a deliverable is rejected, Contractor shall resubmit deliverables to Agency that meet requirements.

C. DOCUMENT STANDARDS

Project Memos – The Contractor shall create all memoranda as letter size (8½ inch x 11 inch) and use a memo format which identifies date, to, from, and subject of document. (E-mail acceptable)

The Contractor shall deliver all work products to Agency in print (*hard copy*) and *electronically* as identified below unless otherwise specified.

Print (hard copy) may include:

- Right of Way Drawings
- Land Surveys filed with County e.g., recovery, monumentation
- Real property descriptions
- Conveyance documents
- Vesting deeds and documents
- Project Design CAD files

D. RIGHT OF WAY ENGINEERING DESIGN

Contractor shall perform data research as necessary to prepare for and support all Project activities; and to produce Project maps and reports as called for in subsequent tasks.

Contractor shall complete a thorough search for all recorded survey monuments and features pertaining to the establishment of property lines and R/W boundaries and shall perform a survey to locate, identify, measure and document all such monuments and features that are found.

Contractor shall become familiar with the Project site and its history as pertains to the details of the Project, shall collect and review general Project background documentation, recorded surveys and conveyance documents, and shall follow all pertinent statutes.

❖ Note: When access to privately-owned property is necessary, the Contractor shall obtain permission from the property owner(s) as prescribed in ORS Chapter 35.220.

## E. R/W DRAWING REQUIREMENTS

Right of Way Drawings shall be prepared according to the guidelines shown in the Right of Way Engineering Manual.

1. Contractor shall prepare R/W drawings using field survey data, vesting deeds, land sales contracts, County assessor plats, subdivision plats, General Land Office plats, existing ODOT R/W drawings, railroad R/W drawings, County surveys, road dedications, and road vacations, as pertain to the Project.
2. Mapping of all features shall be coordinate-correct. The R/W drawing shall include the existing property lines, General Land Office lines, city boundaries, property owners names with deed recording numbers, the R/W centerline (if used to purchase new right of way), R/W boundaries, access control lines, Project design centerlines (if used to purchase new right of way), survey monuments, reference points, buildings, structures, wells, septics, edges of pavement, existing utility lines and facilities, property improvements, and natural features. The names of any features such as subdivisions, roads, streets, or rivers shall be shown.
3. Each survey monument shall be labeled with a description and its coordinates.
4. Each centerline shall include Engineer's Stationing, curve data, bearings, and coordinates.
5. The scale of the R/W drawing will vary depending on whether it is an urban or rural area or has a project specific requirement. The scale will be either 1 inch = 50 feet in an urban area or 1 inch = 100 feet in a rural area.
6. The R/W drawing shall be either a roll map or a sheet map encompassing the entire Project.
  - a. **Roll map requirements:** either 24 or 36 inches in width, and less than 25 feet in length. If the Project size exceeds what can be shown on a single 25-foot long roll map, then additional roll maps will be necessary. Each drawing will be assigned an ODOT R/W drawing number. The particular number is indicative of the map width. The 24-inch wide roll maps are assigned a "B" number, such as 10B-11-12. The 36-inch wide roll maps are assigned an "A" number such as 1A-22-24. The Project will also be assigned a four-digit ODOT R/W Project number by the R/W Project Coordinator. Contact shall be made by Contractor through the prime contact. Both the R/W drawing number and the R/W project number shall be shown on the drawing. A north arrow along with the section, township, and range will be included. On a roll map, this information should be shown at intervals of approximately 3 feet for the full length of the map.

Roll map drawings shall have a title section at both ends of the drawing. The main title shall be placed at the beginning of the drawing and shall include the Project section name, State highway name, county name, scale of drawing, date of drawing, basis of bearing and conversion factor for coordinates to the Oregon Coordinate System (if applicable), location of field notes, R/W Project Number and R/W Drawing Number. The end title shall

show the Project section name, State highway name, county name, scale of drawing, R/W Drawing Number and R/W Project Number.

- b. **Sheet map requirements:** either 11 inches by 17 inches or 12 inches by 24 inches. The 12 inch by 24 inch sheet maps shall be assigned a unique "1R-3" drawing number, for example, 1R-3-972. The 11 inch by 17 inch sheet maps shall be assigned a unique "1R-4" drawing number. All sheet maps shall have a title block showing the Project section name, State highway name, county name, and scale of drawing, date of drawing and R/W Project number. The drawing number shall be shown in the upper right corner of the R/W drawing. The basis of bearing, coordinate conversion factor and location of field notes shall be placed within the face of the R/W drawing.

7. The R/W drawing shall show any existing feature or improvement that will require consideration or compensation. Examples of these features include but are not limited to: Utility lines, both above ground and underground, utility poles and anchors, manholes, junction boxes, valves, meters, hydrants, luminare and signal poles, controller cabinets, junction boxes, signs, both public and private, drainage features such as culverts, ditches, wells, storm sewer, sanitary sewer, drain fields, wetlands and edge of water, buildings, bridges, retaining walls, sound walls, fences and gates, trees, tree lines and brush lines, edge of pavement, gravel, curb, sidewalk, driveways, guard rail, railroad tracks and any descriptive text needed to identify these features. The existing features shall be half toned grey shaded on the R/W drawing so as not to interfere with the prominent features.

8. The R/W drawing shall show the additional right of way necessary to accommodate the Project, along with the file numbers, parcel numbers, areas of taking, and remainder areas, if any. All easements to be acquired will be labeled as to the intended use.

9. A segment (sketch) map may be required to support each acquisition file. Each segment map shall be 8½" x 11" or 11" x 17" size for use in acquisition. The segment map provides graphic representation of the proposed acquisition of property, any remainder of property, and existing improvements on the property.

10. Contractor's determination of the necessary right of way to accommodate Project construction shall consider and may include Fee takings, Permanent Easements, and/or Temporary Easements. (See Appendix D in the Right of Way Engineering Manual for approved easement list).

11. Each property owner(s) to be impacted by the Project shall be assigned a seven-digit ODOT R/W file number. The first four digits of the R/W file number are the same as the R/W Project number. The last three digits are a sequential number i.e.: 001, 002 etc. The R/W file for each property owner(s) shall be a single and independent electronic file. If more than one parcel is to be acquired from a certain property owner(s) then each parcel must be numbered within the R/W file.

## F. RIGHT OF WAY DESCRIPTION REQUIREMENTS

Right of Way Descriptions shall be prepared according to the guidelines shown in the Right of Way Engineering Manual.

1. Real property descriptions prepared by the Contractor shall be strip descriptions based upon centerline stationing. The section, township, and range of the property shall be stated. The County recording information for the vesting documents shall be cited. The exact location of the centerline used in the real property description shall be stated, relative to a section corner, quarter corner, sixteenth corner, D.L.C. corner, or a lot corner of a recorded subdivision. The basis of bearings shall be included. The area of each parcel shall be declared. All real property descriptions must be certain and free of ambiguities.

2. Each R/W file shall include an addendum noting the existing highway access rights for the property, the access rights to be acquired with the conveyance, the area of any taking that is encumbered by an existing easement, the area of any parcel that is included in another parcel, the County tax lot number(s) of the property, the remainder area, the area of any remainder that is encumbered by an existing ODOT easement, and the file numbers of previous ODOT acquisitions. The addendum shall also include the location of the property by section, township, and range.

## G. SUBMITTALS

1. Contractor shall prepare and submit the following:

- a. 2 copies of the Right of Way drawing(s). The drawings (roll and/or sheet maps) shall be a paper copy, except for the final version (see below). The roll map shall have an "Active Copy" stamp at the front and end title area. Sheet maps shall have an "Active Copy" stamp on the face of the drawing (see Appendix E in the Right of Way Engineering Manual).
- b. An electronic R/W file that includes the real property description(s) and addendum(s) for the acquisition from each property owner.
- c. A copy of the vesting documents for each property owner and R/W file. ODOT will notify the Contractor within fifteen (15) working days if the real property description(s), addendum(s), and R/W drawing(s) are approved. If ODOT requires clarification, additional information, or corrections then the 15-day period will be extended. Notification to the Contractor will be provided through the prime contact.

## H. FINAL PRODUCTS

Contractor shall submit electronically and in hard copy

1. A paper copy of the final version of the Right of Way Drawing showing the property that was actually acquired for the project. The R/W lines and easement lines must have been checked for conformity with the signed and recorded conveyance documents. The County's deed recording information for each conveyance document to ODOT shall be shown on the drawing. The drawings (roll and/or sheet maps) shall be a paper copy. The roll map shall have a "Final Copy" stamp at the front and end title area. Sheet maps shall have a "Final Copy" stamp

on the face of the drawing (see Appendix D in the Right of Way Engineering Manual for approved easement list).

2. Copies of the signed and recorded conveyance documents with the County's deed recording information showing on each document.
3. ODOT will review submissions and will notify Contractor within fifteen (15) working days if the final version of the R/W Drawing(s) is approved. Notification to the Contractor will be provided through the prime contact. After notification the contractor will submit a Mylar copy of the R/W Drawing.
4. Contractor shall retain all Project-related materials (electronically and in hard copy) for a period of 5 years or as otherwise agreed to.

#### **IV. RIGHT OF WAY COST ESTIMATING AND PROGRAMMING**

- A. Contractor shall prepare a right of way cost estimate for use by the Right of Way Section to program funds for property acquisition. The cost estimate shall include the project name and county in which the project is located and all project R/W costs, including separate Contractor and ODOT R/W costs.

The right of way cost estimate shall include dollar amounts for the following items: Land & Improvements; Damages/Cost to Cure; Relocation; Demolition; Personnel & Administration; Legal & Contingencies and totals for all Items. The estimate shall be prepared in compliance with the Section's R/W Manual (3.620, and Chapter 3 Appendix A) and shall be forwarded along with a copy of the R/W drawing to the appropriate Region Right of Way Manager.

- B. No right of way appraisal, acquisition or relocation activity shall take place until an authorization to proceed is provided by the Programming Coordinator in the Right of Way Section. This authorization shall be conveyed to Contractor by Region Right of Way Manager

Authorization is estimated to take 3 to 4 weeks for state-only funded projects, and 6 to 8 weeks for federally funded projects. If federal funds are used in any phase of this project, then project authorization will depend upon completed environmental documents. (See 3.630 – 3.640 of the ODOT Right of Way Manual).

#### **V. TITLE**

- A. Contractor shall prepare and assemble all title documents necessary to accomplish acquisition of right of way in a parcel file for each impacted property.
- B. Contractor shall obtain preliminary title reports for parcel files over \$10,000 and others as indicated in the Right of Way Manual (5.610). Contractor shall obtain copies of vesting documents for those parcel files where no preliminary title report is required. Contractor shall obtain all title reports from one Title Company for each project (so long as project is located within one county).

Contractor shall send two (2) complete sets of documents obtained to Region Right of Way Manager.

- C. Contractor shall be responsible for clearing title encumbrances identified on the Preliminary Title Report. Contractor shall present any requests for taking title subject to one or more outstanding interests to the Region Right of Way Manager. If a title report has not been required, fee owners' and contract purchasers' ownership interests must be cleared. When impacted by the taking, lessees' interests must also be cleared.
- D. If the Agency is preparing the acquisition documents, Contractor must prepare a Documents Request form for each project file and submit the request to the Region Right of Way Manager. The Request form addresses access, conveyance, lien releases and any 'subject to' provisions, among other things. Documents will be prepared within five (5) working days of receipt of an acceptable Documents Request form provided that acceptable title information has been received by the Right of Way Section at ODOT HQ. Title to all right of way acquired shall be vested in the State of Oregon by and through its Department of Transportation, unless otherwise directed by an Intergovernmental Agreement between ODOT and a local jurisdiction.

## VI. APPRAISAL AND APPRAISAL REVIEW

- A. Contractor shall use appraisers who are either licensed or certified in the State of Oregon, competent in eminent domain appraising, and on ODOT's approved list of appraisers.
- B. Contractor shall provide one real estate appraisal for each property *or properties which constitute the "larger parcel" as described in the ODOT R/W Manual – 4.320* from which an interest is to be acquired. If identification of the larger parcel is problematic, Contractor shall resolve the issue in consultation with the Region Right of Way Manager and other Right of Way or legal staff the Manager determines is needed.
  - 1. Real estate appraisals shall conform to the standards contained in the R/W Manual, the Guide to Appraising Real Property for Use in State Transportation Projects, and the Uniform Appraisal Standards for Federal Land Acquisitions.
  - 2. All real estate appraisals provided by the contractor shall be prepared using forms or formats of, or approved by, the R/W Section. The types of appraisal reports shall fall into the following categories:
    - a) Abbreviated or short form appraisals for simple takings.
    - b) Detailed (before/after) appraisals for complex takings.
  - 3. Contractor shall secure all reports and estimates necessary to value specialty items to be acquired or to support cost-to-cure estimates.
  - 4. Contractor shall provide not fewer than 15 days written notice to owners of the planned appraisal inspections. The property owner and designated

- representative, if any, shall be invited to accompany the appraiser on any inspection of the property for appraisal purposes.
5. Special Benefits, if any, must be quantified by the appraiser whether or not there are any compensable damages to the property.
- C. On files with a high market value or involving complex or controversial issues, more than one appraisal may be indicated. Contractor will work with the Region Right of Way Manager to determine if any additional appraisals will be required. Contractor shall be responsible for any and all payments for appraisal services.
  - D. Contractor shall provide all appraisals (including any appraisal specifications) to the Region Right of Way Manager for review. Contractor shall include a Report of Personal Interview including date and place of contact, parties of interest contacted, and other activities conducted through the appraisal phase of the file.
  - E. Right of Way Section shall prepare the appraisal reviews, which shall be used to establish the amount of just compensation to be offered to property owners. Reviews shall be completed within 21 calendar days after receipt of the appraisal report in the R/W Section at ODOT HQ. A copy of the appraisal review will be provided to Contractor, although the appraisal review shall not be provided to the owner, contract purchaser, or any other interest holder in the property. Contractor shall provide clarification or additional documentation upon request by the R/W Section Appraisal Reviewers in order to establish just compensation. The 21-calendar day completion time shall stop if the appraisal is not reviewable, and the entire 21-day appraisal review time will begin again only upon receipt of additional information and/or materials to provide for a reviewable appraisal product. In the event of extremely complex appraisals, additional time may be required by the R/W Appraisal Review staff. Appraisal Reviewer will notify Contractor through Region Right of Way Manager when additional data is needed or complex issues require additional review time, which shall extend the 21-day appraisal review timeline.
  - F. Payment to Contractor for expert witness fees (trial preparation and testimony) shall be based on the hourly rate of Contractor's personnel (not to exceed \$100/hour for trial preparation and \$125/hour for testimony) plus expenses. Contractor agrees to participate in condemnation proceedings when, and if, called upon by ODOT.

## **VII. NEGOTIATION**

- A. Contractor shall compile and/or prepare all essential documents to be submitted to owners and tenants as identified in Chapter 5 of the R/W Manual. These include, but are not limited to, the General Information Notice, acquisition and relocation brochures, offer-benefit letters, acquisition and relocation summary statements, copy of appraisal, R/W Acquisition Drawing (if not included in appraisal), and instruments of conveyance.

- B. Contractor shall conduct negotiations for the acquisition of real property in accordance with the Chapter 5 of the R/W Manual and applicable State and Federal law. Contractor will insure that their employees/contractors are experienced in right of way acquisition and knowledgeable about the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended; ORS 281.060; ORS 35.346; and the State of Oregon Right of Way Manual.
1. Every attempt shall be made to present offers to purchase in person. If the acquisition involves either a major impact to the property or the displacement of persons occupying the property, the offer shall be made in person. If this is deemed not possible, Contractor shall discuss alternatives with Region Right of Way Manager.
  2. All property owners shall be provided with a complete copy of the appraisal on which the just compensation is based at the initiation of negotiations.
  3. All property owners shall be given a notice in writing as part of the offer that they have a minimum of 40 days to accept or reject the offer, per state law.
  4. All property owners who are considering a donation shall be informed in writing of their right to just compensation. If owners choose to donate but want an appraisal, the Contractor shall provide an appraisal. The owner shall sign the donation form indicating their waiver of their rights if they elect to donate.
  5. A Report of Personal Interview documenting contact with property owners, owner's attorneys and tenants documenting efforts to achieve amicable settlements, owners' suggestions for changes in plans, responses to owners' counterproposals etc. shall be prepared and maintained for submission with the Final Report.
  6. Contractor shall make every reasonable effort to acquire the right of way expeditiously by negotiation. Property owners shall be given reasonable opportunity to consider the offer and present material the owner believes is relevant to determining the value of the property.
  7. Contractor shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property (49 CFR 24.102(h)).
- C. Contractor shall present for approval a final report packet covering acquisition of right of way to the Region Right of Way Manager. See Attachment A for items to be included in Final Report Packet. **NO DEED or Conveyance Document or Agreement OBTAINED BY THE CONTRACTOR SHALL BE BINDING UPON THE DEPARTMENT UNTIL IT HAS BEEN APPROVED IN WRITING BY THE RIGHT OF WAY MANAGER OR DESIGNEE.**

## VIII. RELOCATION

- A. Contractor shall use the appropriate forms, formats and brochures in relocation advisory assistance and the preparation of relocation studies, reports and claims.

- B. Contractor shall also have at their disposal current versions of the Uniform Act, the applicable Code of Federal Regulations and Non-Regulatory Supplements as they pertain to Relocation assistance.
- C. Contractor shall ensure that relocations take place in a timely manner in accordance with regulatory notification time frames and terms, ensuring the right of way is cleared by the specified date.
- D. Contractor shall at a minimum, conduct the following relocation activities:
  - 1. Conduct occupant interviews to determine relocation eligibility including: names and numbers of occupants and certification of legal residency in the United States, if the relocation involves a tenant, the displacee's income may need to be considered.
  - 2. Provide relocation advisory assistance including information regarding available benefits and available replacement housing and business replacement sites.
  - 3. Establish initial determination of relocation benefits and advise displaced persons of procedures for applying for benefits.
  - 4. Compute replacement-housing payments for owners and tenants. Submit them to the Region Right of Way Manager for review and submission to the Relocation Reviewer for approval before presenting the benefits to the displaced persons.
  - 5. Determine type and amount of move payments according to procedures in Chapter 6 of the R/W Manual. Obtain move estimates as needed, and advise displaced persons in choosing the most appropriate moving method. Any moving estimates over \$2500 need to be approved by the Region Right of Way Manager.
  - 6. Offer transportation, as needed, to all displaced persons to inspect potential replacement housing.
  - 7. Monitor move of personal property as required.
  - 8. Inspect and certify that all replacement dwellings meet Decent, Safe and Sanitary criteria.
  - 9. Verify displacee has relocated to replacement dwelling prior to submittal of any tenants housing payment claims.
  - 10. Contact Region Right of Way Manager in a timely manner for assistance with problematic issues leading to delays or rejection of studies, reports or claims.
  - 11. Respond in a timely manner to all concerns submitted to them by the Region Right of Way Manager.
- E. Contractor shall assemble appropriate claim forms and documentation, obtain signatures and submit all relocation claims to the Relocation Reviewer via Right of Way Manager for review, approval and payment.
- F. The Right of Way Section Relocation Reviewer shall review all relocation studies and approve all relocation claims within five (5) working days of receipt by the

Project Delivery Unit. If the Relocation Reviewer requires clarification, additional documentation, or corrections to be made, the 5-day review and approval period does not begin until the needed information is received.

- G. Contractor shall assist in preparation of relocation appeals process:
1. Contractor shall submit: a chronological history of relocation meetings with displace persons, an outline of disputed issues, appropriate sections of Relocation Chapter 6 supporting the Agency's position (and CFRs/non-regulatory supplements, if applicable), and options presented to resolve the issues.
  2. Contractor shall be available to attend a pre-hearing appeal and/or appeal conference with the individual requesting the appeal and representatives of the Right of Way Section's Project Administration Unit.

## **X. SETTLEMENT/CONDEMNATION**

- A. After a good faith effort has been made to acquire right of way at the Right of Way Section's determination of just compensation, Contractor shall attempt to negotiate supportable administrative settlements. Such settlements may be above the Right of Way Section's estimate of just compensation and/or include construction obligations not included in the project construction plans. Any proposed settlements exceeding the estimate of just compensation shall first be discussed by Contractor with the Region Right of Way Manager before entering into an agreement with the property owners.
1. All settlements shall be submitted to the appropriate Region Right of Way Manager for approval. A justification letter is required with the final report packet if there is a difference between the proposed settlement and the reviewed amount. The letter must include a dollar amount for any proposed construction obligations and give information which explains and supports acceptance of the settlement at the increased dollar amount. Within five (5) working days of receipt of an acceptable final report packet, the Region Right of Way Manager will approve (if within delegated authority) or recommend the settlement for approval.
- B. If a reasonable and adequate period of negotiations does not result in an acceptable settlement, Contractor shall submit to Region Right of Way Manager a Recommendation for Condemnation using ODOT's approved form. Contractor shall submit the Recommendation for Condemnation to Region Right of Way Manager as part of a packet which includes all items and requirements listed in Attachment A, Part B. of this Guide. Contractor shall submit the Recommendation for Condemnation packet no later than 100 days prior to the ODOT construction contract letting date. Region Right of Way Manager will review the file and decide within five (5) working days from receipt of an acceptable packet whether it is appropriate to proceed with Recommendation for Condemnation or whether further negotiations are arranged. If Region Right of Way Manager accepts

Recommendation, Right of Way Section will process condemnation, unless otherwise specified.

- C If ODOT decides to proceed with Condemnation, it will continue to work toward a settlement prior to litigation. During this period, Contractor shall:
  - 1. Be available to assist in the ongoing negotiations as needed.
  - 2. Continue to work with the property owners and/or tenants on any remaining relocation assistance that is still outstanding.
  - 3. Assist ODOT in any mediation efforts and in trial preparation.
- D. Payment to Contractor for expert witness fees (trial preparation and testimony) shall be based on the hourly rate of Contractor's personnel, not to exceed \$100 per hour for trial preparation and \$125 per hour for testimony, plus expenses.

## **XI. CLOSINGS**

- A. After signed property conveyance documents/agreements with property owners are obtained, Contractor shall provide a complete Final Report packet to Region Right of Way Manager for review and forwarding to the Right of Way Section in HQ. Final Report packet should contain all items and requirements listed in Attachment A, Part A of this Guide. Closings will take an estimated twenty (20) working days until payment is mailed.
- B. Contractor shall promptly make corrections and amendments as directed by Right of Way Section in order to properly close the file.

## **XII. CERTIFICATION**

- A. Contractor shall certify to the ODOT Right of Way Section on the approved Certification form that; 1) The department has legal and physical possession of needed right of way; 2) Relocation assistance has been completed for all displaced persons and businesses and that all displaced residential occupants have relocated and have been offered decent, safe and sanitary housing; 3) All acquisition of right of way and relocation activities have been completed in full compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970 as currently amended as well as Oregon state laws, civil rights laws, and other applicable federal and state regulations and policies. The Right of Way Certification will be sent to the Region Right of Way Manager. The Region R/W Manager will review, co-sign if in agreement, and coordinate submittal of the Certification
- B. If at the time of Certification some parcels are not acquired and will not be ready for construction as of the construction contract letting date, Contractor shall discuss with Region Right of Way Manager the feasibility of holding out one or more parcels from Certification. Region Right of Way Manager will consult with HQ Right of Way Section staff as indicated by the circumstances. Consideration of Certification

holdouts shall comply with 3.680 and Appendix B of the Right of Way Manual. If the Region Right of Way Manager co-signs the Certification with parcels identified and held out, Contractor shall provide Region Right of Way Manager with a written update of parcel availability on a weekly basis or more often if a given parcel is critical to advancing construction activities. Contractor shall provide in writing the measures that will be taken to ensure that advancing a parcel to construction shall not impair the safety of or in anyway be coercive in the context of 49 CFR 24.102(h) with respect to un-acquired or occupied properties on the same or adjacent segments of project right of way. Adequate access shall be provided to all occupied properties to insure emergency and personal vehicle access. Utility service must be available to all occupied properties at all times prior to and until relocation is completed. Open burning should not occur within 1000 feet of an occupied dwelling.

### **XIII. TAKING POSSESSION**

- A. Contractor shall issue notices to vacate property in accordance with the R/W Manual. (see: 5.625; 6.145-6.150; 6.330-6.335) Contractor shall take possession of all property acquired whether possession is gained via negotiated purchase or condemnation according to 9.135 of the Right of Way Manual. Contractor shall attempt to gain owner and tenant signatures on Right of Way Section's Surrender of Possession form.
- B. Contractor shall be responsible for the management and removal of all improvements located on or partially within the right of way needed for construction of the project.

### **XIV. UTILITY AND RAILROAD**

#### **UTILITY COORDINATION SERVICES TO BE PROVIDED BY CONTRACTOR**

- A. Contractor shall track and document the full cost to research, investigate and coordinate the resolution of utility impacts with each utility. Utility coordination activities can include, but are not limited to, the following activities:
  - Surveying and mapping of utilities.
  - Meetings, notifications, agreements, and correspondence, etc., for the determination and resolution of utility conflicts.
  - Design changes specifically for utility conflict resolution.
  - Coordination and inspection of utility relocations during construction.
  - Survey activities specifically for utility purposes.

- B. Contractor shall provide a monthly report detailing the expenditures with each utility. Contractor shall also provide a summary report for the preliminary engineering phase and the construction engineering phase. All reports shall be provided in electronic format to the State Utility Liaison located within the Right of Way Project Administration Unit. The summary reports shall be provided within 2 weeks after completion of the preliminary phase and construction phase.
- C. Contractor shall provide all utility coordination services necessary for the project. Contractor shall conduct all tasks and provide all documents or products necessary for the project including, but not necessarily limited to, any or all of the following:
1. Project Scoping
    - Identify utilities (existing and proposed)
    - Prepare utility report
    - Notify utility companies, in writing, of project scope, schedule and potential impacts
    - Define initial level of utility involvement (deliverables and commitments)
    - Make initial determination of utility location property rights (fee, easement, permit, "X" permit, franchise, estoppel, prescription, ORS, etc.)
    - Make initial determination of potential utility reimbursement costs for budgeting purposes
  2. Project Development (identify coordinate and resolve utility impacts)
    - Locate and map utility facilities in project area
    - Determine utility conflicts by utilizing accurate location data, including 3-dimensional data as necessary
    - Verify location data and conflicts with utility companies
    - Develop detailed list of all utility conflicts for each utility
    - Determine reimbursement eligibility for utilities with conflicts, obtain written property right documentation
    - Work in coordination with utility, designers, maintenance and construction manager to determine best resolution of utility conflicts
    - Notify utilities, in writing, of the project schedule, the specific conflicts with their utility facilities, the requirement to relocate, to obtain a permit and pay a fee per the Oregon Administrative Rules. Request relocation plan and relocation schedule, a cost estimate if appropriate, permit requirements, timing of property access rights, any other requirements, and the time that the information is required
    - Work with utilities to determine best relocation schedule and any coordination requirements with the construction project
    - Confirm utility relocation schedule in writing with each utility
    - Prepare written utility relocation specifications for the Contract Special Provisions
    - Prepare and submit a Utility Status (Certification) Report

### 3. Reimbursable Utility Relocation Requirements

- Follow requirements of 23 CFR 645 and “Program Guide, Utility Adjustments and Accommodation on Federal-Aid Highway Projects”
- Follow procedures in Railroad And Utility Manual
- Obtain compensable property right documents
- Prepare and submit Reimbursement Certification
- Notify and advise utility of reimbursement and authorization requirements per 23CFR 645 and ODOT procedures

### 4. Construction

- Schedule and lead a utility relocation pre-bid meeting if applicable
- Attend utility pre-construction meeting if applicable
- Attend construction contractor pre-construction meeting
- Help with resolution of unanticipated utility conflicts during construction

D. Contractor shall provide, in electronic format, copies of all written reports notifications, or communications regarding utility coordination to the appropriate Region Utility Specialist and to the State Utility Liaison. All reimbursable utility relocation work, including utility preliminary engineering, will require written authorization through the State Utility Liaison prior to any reimbursable work to take place. Authorization may take up to twenty (20) working days from receipt, to the State Utility Liaison, of an acceptable request prior to any reimbursable work to take place.

E. The research, cooperation, coordination, relevant reports, resolution and mitigation of utility conflicts must conform to and adequately represent the requirements of the following laws, rules, regulations and guides:

- Code of Federal Regulations, 23 CFR 645
- FHWA Program Guide, Utility Adjustments and Accommodation of Federal-Aid Highway Projects
- Oregon Laws, ORS 758, 366.321
- Oregon Administrative Rules, OAR 734-55
- ODOT Public Improvement Utility Project Guide

F. Required letters, agreements, certifications, etc., can be found on the ODOT web site:

**[http://www.oregon.gov/ODOT/HWY/ROW/utility\\_resource.shtml](http://www.oregon.gov/ODOT/HWY/ROW/utility_resource.shtml)**

## **RAILROAD COORDINATION SERVICES TO BE PROVIDED BY CONTRACTOR**

- A. The Contractor shall coordinate with the State Railroad Liaison (SRRL) in the Right of Way Project Administration Unit all project related items that will potentially impact any railroad property or operations. The SRRL will act as the direct contact with railroad personnel. The Contractor shall coordinate the preparation and handling of needed documents with the SRRL and with the ODOT Rail Division.
- B. The following are activities that occur during the Scoping phase of a project:
- Contractor shall notify SRRL of any impending impacts to railroad property or operations. The SRRL shall notify the railroad.
  - When deemed necessary by both the SRRL and the Contractor, the SRRL shall invite the railroad to any meetings.
  - SRRL shall obtain prior approval from the railroad as needed if a variance from railroad standards is going to be necessary. Sometimes railroads may not adhere to any preliminary approvals as a variance may need further review by both railroad engineering departments and or their legal departments.
  - Contractor shall notify the ODOT Rail Division if any work will be within 500 feet of any railroad crossing.
  - It should be noted that there are several activities that can have significant impact on project schedules:
    - a. Railroad cost estimates can take up to six months to obtain from the railroad;
    - b. A crossing order can take four to six months to obtain;
    - c. A plan review by the railroad should take 30 days
    - d. Oregon has 22 short line railroads and 2 main line railroads. Each of these may vary in the turn-around time frame needed for obtaining railroad cost estimates or plan reviews.
- C. The following are activities that occur during the Project Development phase of a project:
- Contractor shall obtain all railroad design requirements from the SRRL and/or ODOT Rail Division.
  - Unless previously agreed upon with the SRRL, the Contractor shall coordinate with SRRL in obtaining all Rights of Entry onto railroad property.
  - Contractor shall determine impacts to any railroad property or railroad operations and coordinate a resolution to those impacts through design changes as recommended by the SRRL.
  - In coordination with the SRRL, the Contractor shall obtain railroad cost estimates for any work being done by the railroad that is reimbursable.
  - Contractor shall prepare the Rail Crossing Application if any alteration to a railroad crossing is needed as determined by the ODOT Rail Division.

- Contractor shall coordinate with the SRRL to obtain a permit whenever a new pipe or conduit underground railroad crossing will be required.
  - Contractor shall coordinate with the SRRL when any property rights are needed from the railroad.
  - Unless otherwise agreed upon, the SRRL will prepare all Construction & Maintenance agreements or any other agreements needed with the railroad.
- D. All written reports, notifications or communications regarding railroad coordination will be copied to the SRRL.
- E. The research, cooperation, coordination, relevant reports, resolution and mitigation of railroad impacts must comply with the requirements of the following laws, rules and regulations:
- Code of Federal Regulations, 23 CFR 646
  - Oregon Laws, ORS 366.335, 366.365, ORS chapter 824
  - Oregon Administrative Rules, OAR 741-50

## **XV. PROPERTY MANAGEMENT**

- A. Contractor shall identify property management requirements for all acquired right of way parcels and provide findings to Region Right of Way Manager.
- B. Contractor shall develop, maintain, and submit to the Region Right of Way Manager, a monthly status report on the inventory of acquired real property to be retained or disposed of.
- C. Contractor shall insure transition of acquired parcels to property management status by:
  - 1. Maintaining contact with Contractor acquisition personnel, closing officers, and the Region Right of Way Manager to assure prompt action upon the gaining legal possession of acquired parcels. Contractor shall:
    - a. Verify that possession date and Relocation vacation date have occurred.
    - b. Obtain keys to structures.
    - c. Verify that property has been properly vacated and left clean.
  - 2. Management of improved real property. Contractor shall:
    - a. Conduct a post-acquisition survey of realty.
    - b. Arrange for occupancy of structures, if they are to be rented. This requires the prior approval of Region Right of Way Manager who will subsequently notify the HQ Property Management group. Contractor is responsible for the following activities:
      - i. Develop estimates of short term rental rates;
      - ii. Advertise rental units;
      - iii. Negotiate new and re-rental agreements;
      - iv. Conduct inspections for needed maintenance and arrange for such maintenance
        - Confirm continued occupancy by residents
        - Oversee moves into units by new tenants
    - c. Secure vacant structures and other improvements if they are not to be rented:
      - i. Lock, board and otherwise secure acquired structures and other improvements;
      - ii. Arrange for disconnection of utilities;
      - iii. Arrange for maintenance;
      - iv. Arrange for rodent control;
      - v. Arrange for security measures;
      - vi. Make ready for demolition
- D. Contractor shall maintain Project Area against illegal dumping and use by:
  - 1. Conducting weekly inspections to observe conditions;
  - 2. Correcting (cleanup) prohibited conditions;

3. Responding to complaints of corridor residents;
  4. Mowing and exterior maintenance
- E. Contractor shall conduct property management accounting tasks including:
1. Developing and maintaining an inventory of all rental properties, indicating: property type, lease term (beginning and end dates), and rental rate;
  2. Collecting rents on a monthly basis;
  3. Submitting rental income on a monthly basis to Property Management Records Specialist in Program Management Unit;
  4. Assuring prompt payment of invoices for maintenance and testing;
  5. Taking action on delinquent rental payments as described the Right of Way Manual (9.390 - 9.410);
  6. Providing monthly reports to Region Right of Way Manager.
- F. In the event that demolition is required, Contractor shall:
1. Issue vacation notices.
  2. Oversee moves
  3. Coordinate moves with Relocation personnel, if applicable
  4. Obtain keys
  5. Check to see if vacant and clean.
  6. Secure vacant structures as in C.3. above.
- G. Submit final status report to Region Right of Way Manager prior to completion of contract concerning properties to be retained and properties for disposal. Report shall contain the following information:
1. Inventory of real property to be demolished;
  2. Inventory of real property to be retained for management by the Region;
  3. Status of excess lands (to be disposed of by Right of Way Property Management staff in the Program Management Unit)
  4. Full accounting of income and expenses attributable to property management activities.

## **XVI. DISPOSALS**

- A. Contractor shall perform the following tasks necessary for the disposal of acquired structures in accordance with the Right of Way Manual (9.150-9.220):
1. Identify structures/improvements to be disposed of;
  2. Advertise and schedule sales of vacant structures;
  3. Establish salvage values for acquired structures consistent with the R/W Manual (9.155);
    - a. Salvage values for acquired structures that are to be retained by the property owners are to be deducted from the department's purchase price of the property as described in Chapter 5 at 5.560

- b. Market values of real property reserved for other uses;
  4. Conduct public sale of structures/improvements;
  5. Coordinate and contract to achieve the timely removal of acquired structures offered for sale (by removal), retained by owners or by demolition by a qualified contractor. All acquired improvements shall be cleared from the right of way;
  6. Contractor shall be responsible for the payment of property management services provided in this section;
  7. Notify Region Right of Way Manager of completion of demolition either by sale and removal or by demolition
- B. The disposal of excess land will not commence until after highway construction is complete. The Contractor's role in this function is restricted to the following:
  1. Identifying excess land parcels;
  2. Identifying in monthly status reports opportunities for alternative uses of excess lands for purposes of reducing project impacts and achieving cost avoidance:
    - a. Mitigation of environmental problems (e.g., noise barriers; hazmat; wetlands);
    - b. Reduction of severance damages (e.g., loss of access);
    - c. Facilitate construction (e.g., haul roads)
- C. Final Status Report on properties to be demolished by construction contractor shall be sent to the Region Right of Way Manager. The report should contain at a minimum, the following information:
  1. Inventory of real property to be demolished
  2. Inventory of real property to be retained for management
  3. Status of excess lands (to be disposed of by ODOT Right of Way Section Property Management staff in the Program Management Unit;
  4. Full accounting of income and expenses attributable to disposal activities.

## **Attachment A:**

### **A. FINAL REPORT CLOSING PACKAGES (See Negotiation Section)**

*RECEIVE FROM CONTRACTOR (For each Right of Way Parcel File.) Items Listed Below need to be in this exact same order:*

1. *Final Report: Original + 1 copy (NOTE: This must include the social security number or Federal ID number of all parties of interest receiving warrants.)*
2. *Justification Letter, required if settled over review : Original only*
3. *Signed Deeds or Easements: Original + 1 copy (if recording is handled by Agency)*
4. *Recorded Deeds or Easements: Original + 1 copy ( if recording is handled by Consultant)*
5. *Releases: Original + 1 copy*
6. *Obligation (3300 Form): Original only*
7. *Assignment of Proceeds: Original only.*
8. *Offer Benefit Letter and Acquisition Summary Statement: 1 copy.*
9. *Completed and Signed IRS Form W-9: Request for Taxpayer Identification Number and Certification: Original only*
10. *15-day Notice to Owner of Appraisal Inspection: 1 copy*
11. *Relocation Benefit Summary Statement: 1 copy*
12. *Relocation Eligibility Listing (if applicable): Original only*
13. *Tenant offer letters (if applicable): 1 copy*

*Items listed below can be in any order and one only:*

1. *Report of Personal Interview (for all parties of interest): 1 copy*
2. *Signed Statement of Negotiator: 1 copy*
3. *State's Obligations: 1 copy*
4. *Grantor's Obligations: 1 copy*
5. *Road Approach Permit (if applicable): 1 copy*
6. *Correspondence (e.g. letters, e-mails, etc...)*
7. *Salvage Value Appraisal: 1 copy*
8. *Title report and/or vesting information, as required: 1 copy*
9. *General Information Notice: 1 copy*

*Items listed below must be included in file:*

- *All appraisals and appraisal reviews: 1 copy each*
- *Most recent Exhibit A, Right of Way Description: 1 copy*

*Contractor shall confirm that:*

- Exhibit A is the same for signed conveyance documents and appraisal.*
- Access control language and reservations check with list.*

- *State's obligations beyond approved plans shall have the necessary ODOT signatures.*
- *Final Report summarizes costs as per appraisal breakdown.*

**B. RECOMMENDATION FOR CONDEMNATION PACKET**  
**(see Settlement/Condemnation Section).**

**Provide two (2) complete sets of the following items:**

1. *Condemnation Recommendation, completed as per approved format. (Must include complete physical street addresses of all parties of interest (including attorneys), along with the social security number or Federal ID number of any parties of interest. This form must identify issues such as building removals, signs, approach roads, hazardous materials issues, etc.)*
2. *Summary letter of key issues and proposals discussed with property owners to resolve the issues. (1-2 pages maximum.)*
3. *Copy of most recent Exhibit A, Right of Way Description, with the description date.*
4. *Copy of the offer benefit letter/s (owner, tenant, revised offers, etc.) and acquisition summary statement.*
5. *Report of Personal Interview.*
6. *Copy of Title Report (A complete title report must accompany all Recommendations for Condemnation.)*
7. *The appraisal the offer is based upon, plus the appraisal review and Agency Determination of Just Compensation. Copies shall include color pictures.*
8. *All other appraisals completed for the file.*
9. *All correspondence (e.g. letters, e-mails, etc...).*
10. *A complete set of photos of property highlighting issues and problems identified in the negotiations.*
11. *Obligation (3300 Form)*
12. *Relocation Benefit Summary Statement*
13. *Relocation Eligibility Listing (if applicable)*
14. *Tenant offer letters (if applicable)*

Contractor shall confirm that:

- *Exhibit A is same for the recommendation for condemnation and appraisal.*
- *Access control language and reservations check with list.*
- *Recommendation for Condemnation summarizes costs as per appraisal breakdown.*