

LOTICIP Rights Of Way Process

The following can be used by the Town and their Consultant to better understand the requirements of the Rights Of Way (ROW) process within the CTDOT LOTICIP Program.

Different types of encroachments on Private Property (areas outside of the ROW/Street lines) have different requirements, as follows:

Types of Encroachments on Private Property:

Rights:

Work on private property, that is considered a temporary/short duration inconvenience to the property owner, requires a Right. Work that primarily results in a “betterment” to the property is typically considered a Right. Rights are used for the performance of specific work on a property that is not necessary for the completion of the project. Rights are: temporary encumbrances, are non-compensable, and do not require an acquisition with a Property Map. Rights must be shown on the construction plans and written permission from the property owner must be obtained before construction starts.

Common project elements that are typically considered Rights are: Installation of fences and shrubbery for the privacy and beautification of the property, Reconstruction of driveways that are a 17% grade (6:1) or flatter in order to make them traversable, Embankments slopes that are 6:1 or flatter in order to make them more maintainable for the property owner.

Easements:

Easements are considered Acquisitions of private property. Work on private property, that is a *permanent encumbrance to the property, requires an Easement. Easements are required when the performance of the work on the property is necessary for the completion of the project and the safe functioning of the roadway. Easements: are *permanent encumbrances, are compensable, and require an acquisition with a Property Map. Easements must be shown on the construction plans and must match the information on the Property Map.

There are a variety of easement types. The CTDOT “Policies and Procedures for Property Maps”, describes the following types: Slopes, *Temporary Work Areas, Drainage Rights of Ways, Easements to Drain, Defined Easement for Highway Purposes, Traffic, Sight Line, Guide Railing, Channel, Retaining Wall, Wetland Mitigation, Sidewalk, Rights of Access, Ponding.

The following types of easements are very common to local transportation projects. Therefore, some additional guidance/clarification is provided below:

Slope Easements: When proposed slopes extend onto private property they need to be carefully evaluated. A cut slope that is steeper than 6:1, that extends onto private property requires an easement. A fill slope that is 2:1 or steeper, that extends onto private property requires an easement. (If the proposed final grading of a fill slope is flatter than 2:1, the theoretical 2:1 slope needs to be evaluated to see if an easement is required.) If fill slopes, flatter than 2:1, are required for the safety of the roadway (i.e. a flatter slope is needed to eliminate guiderail) and they extend onto private property, then an easement is required.

*Temporary Work Area Easements: When work areas are required on private property, to allow the contractor additional room to construct the project, an easement is required. Temporary Work Area Easements (aka Construction Easements) are considered a *permanent encumbrance on the property because they are in place for the duration of the construction project and are not extinguished until the project is complete. A property map is required for a Temporary Work Area Easement.

Defined Easement for Highway Purposes: These easements are very similar to Partial Takes. The easement lines become part of the street lines, must be geometrically defined off the project baseline and must be monumented. Partial Takes are preferred over Defined Easements for Highway Purposes. These easements are used to contain physical features that are part of the transportation system, like portions of roadways or bridges.

Traffic Easements: When components of traffic signals (i.e. span/mast arm poles, controller cabinets, push button pedestals, etc.) or other traffic control devices are located on private property, an easement is required for the components located on private property.

Guide Railing Easements: When a guiderail is required for the safety of the roadway and it is located on or extends onto private property, including the end anchorage, an easement is required for the portion of the guiderail system located on private property.

Sidewalk Easements: When portions of sidewalks are located on private property, including landings for handicap ramps, an easement is required for the portion of the sidewalk located on private property.

Easements are acquired for the purpose of constructing and maintaining the specific physical feature described in the easement. A separate Temporary Work Area easement is generally not required to construct the specific feature. In cases where a significant work area is required on private property, beyond the specific feature in order to construct the feature, a Temporary Work Area easement may also be required.

Partial Takes:

When a project requires major elements (i.e. portions of the roadway, bridges, etc.) to be constructed on private property, a partial take of the property is generally preferred. When assessing Partial Takes, care must be taken to ensure that the Take will not result in the property no longer conforming to zoning regulations. In these cases, a Defined Easement for Highway Purposes may be the solution.

ROW Process Activities:

During the Preliminary Design Phase, (up to 35% completion) the Town and/or their Consultant should carefully look at project impacts and new physical features on private property. Private property impacts should be discussed with CRCOG and their technical consultant to ensure that the ROW Process is well understood, so that advertising for construction is not delayed due to missing steps in the Process.

Early in the Final Design Phase, (around 60% completion) the property maps shall be prepared. The Town and/or their Consultant can perform the ROW Process, or the Town can request that the CTDOT ROW Unit perform the ROW Process for them.

A Title Search must be performed for all properties that will have an Acquisition (Easement or Take). Each property owner shall be notified to discuss the impacts to their property and the required Acquisitions. A plan sheet showing the impacts/acquisitions should be available for this discussion. The property owner shall be notified that they are entitled to fair compensation for the Acquisition. The property owner can waive compensation (donate the Acquisition) if they choose. If compensation is waived, then a "Waiver of Compensation & Appraisal" letter must be prepared by the Town and signed by the property owner. In cases where compensation is not waived, the Town shall prepare a written offer letter, that includes the appraised value of the Acquisition, and present it to the property owner. All acquisitions must be complete (Compensation paid to the owner and Property Maps filed in the land records) before the project can be advertised for construction.

If it is determined that Acquisitions are not required for the project, the Town shall certify this condition on the "General Municipal Certification" form. No other steps of the ROW process are required for these projects.

Additional information on the ROW Process, the need for Easements and the requirements for Property Maps can be found in the "CTDOT LOTCIP Manual" and the "CTDOT Policies and Procedures for Property Maps".