

## **14 Railroad Acquisitions**

### **14.1 General**

Railroads are a major transportation operation within the State of Georgia, with federal and state guidelines in place. Based on this, GDOT Office of Right of Way and Utilities has coordinated with the major railroad (RR) companies on standard operating procedures that follow both the RR's and GDOT's guidelines. In general, RR's are to be handled like any other property owner, however, with much more pre-acquisition coordination.

### **14.2 Office of Utilities Coordination**

The Office of Utilities RR Liaison section plays a vital role in the RR plan development process. Their office coordinates directly with the RR's engineering division on developing an approved design for the RR acquisition. It is important that the Office of ROW and Utilities discuss the design well before ROW plan submission, to make sure approved acquisition guidelines/procedures are followed. The Office of Utilities RR Liaison section also captures ALL temporary easements through the Construction Agreement (CA). This agreement establishes the terms and conditions under which the project work will be accomplished, and is the "official" agreement with the RR to commence construction activities over and across the required areas.

### **14.3 Acquiring Right of Way from Railroad Companies**

All operating and non-operating Railroad (RR) property acquisitions on **GDOT** Projects will be negotiated and acquired by the State Special Parcel Coordinator from the Office of ROW. RR acquisitions on **LOCAL** projects will be the responsibility of the local acquiring agency; however, the State Special Parcel Coordinator will be available to provide guidance/assistance when needed. Also, to be of assistance on RR Acquisitions is the Assistant State Right of Way Administrator from the Office of ROW.

There are basically 3 (three) standard types of RR Acquisitions: Highway Crossing; Parallel; and Non-operating acquisitions. The following guidelines describe each type and state the standard negotiation/acquisition process for each. Also, refer to 23 CFR 710.203(9) for information regarding the acquisition of railroad property.

#### **A. Case 1 - Highway Crossing**

Where existing highways cross railroads at grade or by grade separation (either over or under the tracks,), per GA Code 32-6-196, GDOT has the right to maintain or improve the crossing without compensation for the necessary work area(s). However, per mutual

agreement between the RR's and GDOT, it has been agreed that GDOT will compensate for ROW and permanent easements, however, not for temporary easements.

Per the agreement, the portion of construction involving installation of new structures (i.e. roads, bridges, or drainage pipes) or modification of existing of structures, will be covered by either ROW or Permanent Easement. The ROW plans will show ROW or permanent easement covering the footprint of the improvement. A parcel no. will be given to the proposed acquisition area(s), and the parcel will be appraised and acquired following typical GDOT ROW procedures.

Any areas to be used for slope work/grading or maneuverability will be acquired as temporary easements, The ROW plans will be labeled "Easement by Railroad Agreement", and there will be no offer and/or compensation. (See example Figure 14.3 A attached).

## **B. Case 2 - Highway Parallel to Railroad**

On projects involving parallel impacts to RR's, in most cases the RR Company will require ROW or permanent easement acquisitions. This will be decided during the plan development process through coordination between the Office of Utilities and the RR Engineers. In some cases, temporary easement is allowed, either way, the plans and parcel acquisition process is the same as highway crossings. The ROW plans will show ROW, permanent easement, or temporary easement covering the work areas. If the acquisition is ROW or permanent easement, a parcel no. will be labeled, and the appraisal/acquisition process will proceed. Temporary easements will be handled through the CA, same as crossings. (See Figure 14.3 B attached)

## **C. Case 3 - Non-Operating RR Property**

In some cases, highway projects impact RR properties which have been abandoned, or are outside their normal train operations. Such property may also have buildings or other improvements attached. Such non-operating right of way will be acquired by the Office of Right of Way under the same procedures. The ROW plans will show ROW, permanent easement, or temporary easement covering the work areas. If the acquisition is ROW or permanent easement, a parcel no. will be labeled, and the appraisal/acquisition process will proceed. Temporary easements will be handled through the CA, same as crossings.

# **14.4 Acquisition Procedures**

## **A. Appraisal**

When temporary easement is needed along with required right of way or permanent easement, the temporary easement area should be excluded from the overall valuation process. The plans should be clearly labeled showing temporary easement area as "Easement by Railroad Agreement". Other than this, RR parcels are appraised in the same manner as any other parcel. The parcel is assigned to an appraiser, who will perform the

valuation. The appraisal report will be reviewed by a GDOT Reviewer, who will then prepare a 532 release for negotiations.

## **B. Negotiations**

Even though the actual negotiations of the RR parcel is to be performed by the State Special Parcel Coordinator, the District Acquisition team is still responsible for an accurate negotiation file. The team should perform the normal due diligence in reviewing the title and ROW plans prior to Offer Package preparation.

The offer package should be the same as a standard offer and include the following:

- a. Offer Letter
- b. Statement of Estimated Values
- c. Letter of Availability of Incidental Payments
- d. Right of Way Option with attached plats highlighting proposed acquisition area
- e. Brochure entitled "What Happens When Your Property Is Needed For A Transportation Facility"
- f. Receipt for Brochure
- g. Acknowledgement of Plan Receipt

Once the package is prepared, the file will be sent to the State Special Parcel Coordinator ASAP. From that point, the State Special Parcel Coordinator will handle the file all the way to closing or condemnation.

## **14.6 Quality Assurance Quality Control**

All activities concerning the acquisition of Right of Way from railroad companies must adhere to the policies and regulations of the Uniform Relocation Assistance, and Real Property Acquisition Policies Act of 1970, as amended. Reference 49 CFR 24. The checks and balances for these procedures can be found in Chapter 5 of the Right of Way Manual, under Quality Assurance, Quality Control.

## **14.7 Special Considerations for Norfolk Southern (NS) and CSX**

**Right of Entry's (ROE's):** CSX will perform ROE's, however, NS will not. Plan schedules accordingly.

**NS RR Legal Descriptions:** For NS, the plans need the northing/easting coordinate points added to the data table, with bearings and distances. The Legal Description must be a metes and bounds description rather than a station and offset description. The Condemnation Preparation Section can assist with a metes and bounds description if needed.

## NS RR June 2020 MOU

- 1) The minimum settlement amount for NS parcels will be \$5,000. This is based on the in-house cost NS incurs for processing easement documents, etc.
- 2) Settlements for acquisitions in excess of \$5,000 will be based on GDOT's appraised value or negotiated in good faith (based on GDOT provided Sales Data) to work towards an agreement.

**Exception:** For parcels with an estimated FMV of greater than \$300,000, NS RR reserves the right to obtain their own appraisal (at NS RR expense) for negotiation purposes.

- 3) GDOT and NS RR agree to work towards a real estate agreement prior to the Construction Agreement being completed. It is very rare that the ROW footprint changes, and having a signed Option Agreement and Closing Documents prepared beforehand, would provide for a more time efficient closing process after the Construction Agreement is completed. Of course if any changes occur post agreement, GDOT will revise its plans, values, and documents to reflect the changes, with NS RR concurrence. In summary, the risk of this advancement process is very minimal to both parties.

**Policies and Procedures of the Department in this chapter may be waived, altered, or modified at any time and at the full discretion of the Department and FHWA as necessary to accomplish the overall goals and objectives of the Department and FHWA, and as long as any waivers, alterations, and modifications of said policies and procedures are not in direct violation or contradiction with state and federal codes, of which will rule over any recommended waivers, alterations, or modifications**

Figure 14.3 A

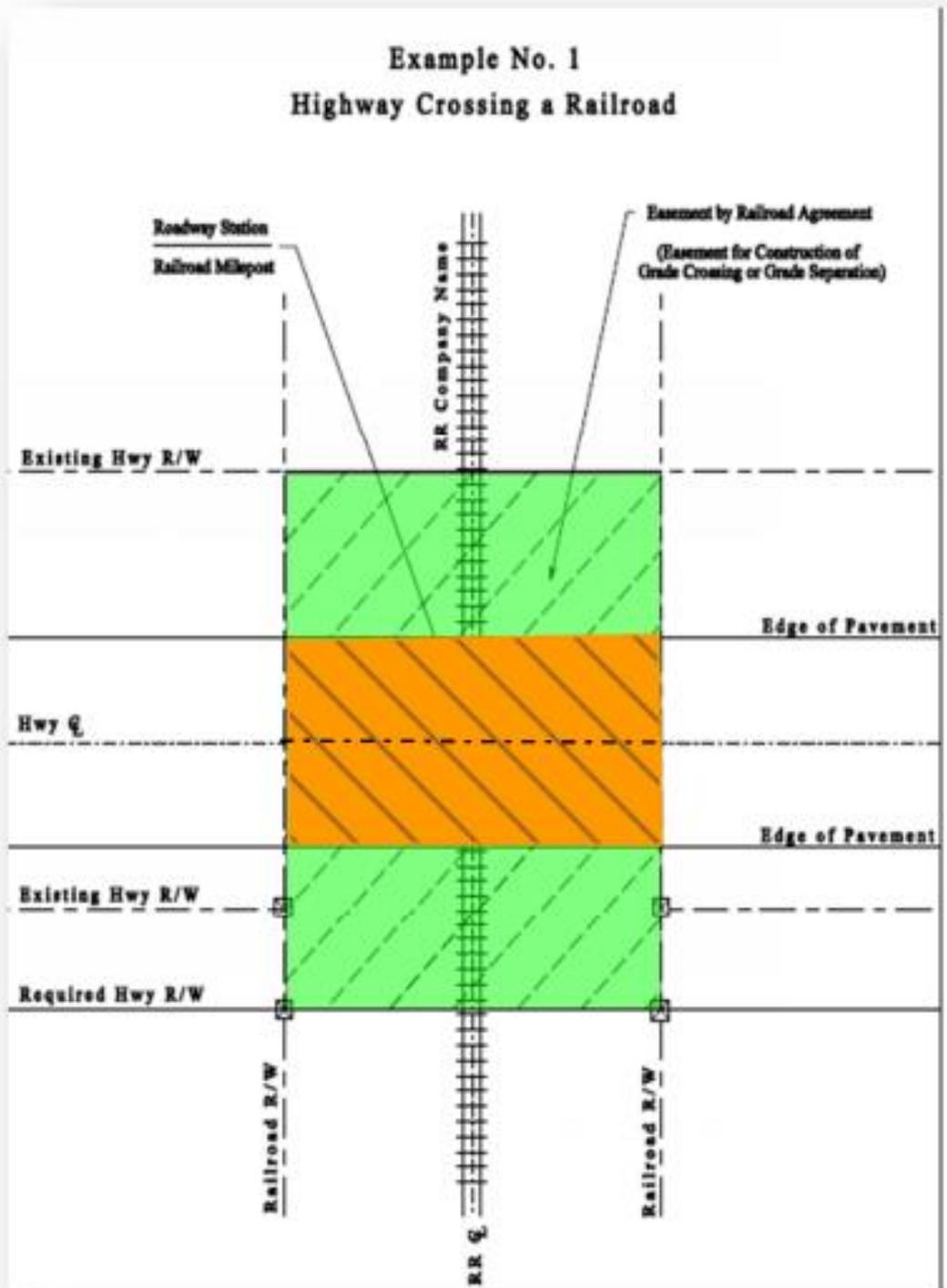


Figure 14.3 B

