

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 1 of 9 |
| Title: ROW Acquisition | | |

1.0 PURPOSE:

The purpose of this document is to define the procedure for obtaining ROW acquisition.

2.0 RESPONSIBILITIES:

- 2.1 NTTA Board of Directors – The NTTA Board is responsible for approving a Notice of Intent, reviewing and approving a ROW Offer Package and reviewing and approving a Counter-Offer Package if presented.
 - 2.2 ROW Acquisition Team - The ROW Acquisition Team shall be responsible for preparing the Notice of Intent letters to property owners, prioritizing the parcels identified, ordering title commitments and a five-year sales history on all parcels, working with title companies to obtain clear title, and coordinating with the property owner and title company during the closing process. The ROW Acquisition Team shall also be responsible for generating the preliminary offer list, preparing the ROW Offer Package, preparing the Acquisition Package; distributing Offer Packages to agents, ensuring all Counter Offers that are \geq \$300,000.00 are presented to the Board, and for managing closing activities.
 - 2.3 The Consulting Engineer shall adhere to the requirements described in Section 409 of the Amended and Restated Trust Agreement which requires that the Consulting Engineer certify that, in their opinion the acquisition of the property is necessary in connection with the construction or operation of the project.
 - 2.4 Corridor Manager (CM)/Project Manager – The CM or Project Manager shall be responsible for coordinating the development of the project schedule in accordance with *PC-06, Schedule Management* procedure, with the production manager, including ROW acquisition timelines.
 - 2.5 ROW Acquisition Team Appraiser – The appraiser shall be responsible for establishing the value of the property taken and any diminution of value to the remaining property, and obtaining the appraisals for each parcel within the right of way authorized by the Notice of Intent.
 - 2.6 ROW Team Acquisition Team Appraisal Reviewer – The appraisal reviewer shall be responsible for checking the appraisal for accuracy and omissions.
 - 2.7 NTTA Legal Counsel – The NTTA Legal Counsel shall be responsible for requesting and reviewing the property appraisal from the selected appraisal firm, reviewing the Offer Packages prepared by the ROW Acquisition Team, preparing the offer letter, reviewing counter offers if presented, and, preparing final acceptance letters in support of the real property negotiations. Upon acceptance of NTTA’s offer or upon approval of a counter offer, the NTTA legal counsel shall prepare all conveyance instruments, and request the appropriate funds, prior to closing. The NTTA Legal Counsel shall adhere to the requirements set forth in Section 409 of the Amended and Restated Trust Agreement.
-

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 2 of 9 |
| Title: ROW Acquisition | | |

3.0 SCOPE/APPLICABILITY:

This procedure shall apply to right of way acquisitions in support of NTTA corridors and projects.

4.0 REFERENCES:

- Federal Highway Administration Uniform Act – Federal Register Part V, 49 CFR, Part 24 – <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4b130c71709cf33dd27a942ac4e391be&rqn=div5&view=text&node=49:1.0.1.1.17&idno=49>
- Texas Property Code Chapter 21 <http://law.justia.com/texas/codes/pr/004.00.000021.00.html>
- Procedures further defined in TxDOT Right of Way Manual – Vol. 2 Right of Way Acquisition <http://onlinemanuals.txdot.gov/txdotmanuals/acq/index.htm>
- [PC-06](#) *Schedule Management* procedure
- [AG-02](#) *ILA/MOU Process* procedure
- [ROW-04](#) *Eminent Domain* procedure
- [ROW-05](#) *Relocation Services* procedure

5.0 DEFINITIONS & ACRONYMS

- **USPAP** - The Uniform Standards of Professional Appraisal Practice are the generally accepted standards for professional appraisal practice in North America.
- **Eminent Domain** – A governmental right to acquire private property for public use by condemnation, and the payment of just compensation.

6.0 PROCEDURES:

- 6.1 The Corridor Manager or Project Manager shall coordinate the development of the project schedule, inclusive of the required ROW completion milestones. A detailed ROW schedule shall be developed comprised of all property owners and tasks necessary to complete acquisition within project schedule deadlines. All activities, such as the appraisal preparation, real property negotiations, relocation assistance, eminent domain, and the property management process, shall be included in the ROW schedule.
- 6.2 Upon identification of the right of way to be acquired in accordance with the project schedule, the ROW Acquisition Team shall be responsible for preparing the Notice of Intent letters to impacted property owners, prioritizing the parcels identified and submitting the list of parcels to be acquired in priority order to the Board. NTTA Board shall issue a Notice of Intent approving the acquisition of right of way.

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 3 of 9 |
| Title: ROW Acquisition | | |

- 6.3 Upon issuance of the Notice of Intent, the ROW Acquisition Team shall prioritize the parcels to be acquired and ensure Right of Entry letters exist for each prior to entering the property.
 - 6.4 Appraisal - The appraisal is requested by NTTA legal counsel and performed by a licensed appraisal firm in accordance with USPAP guidelines and shall be made for all project parcels to determine just compensation to be paid to the owner. The appraiser shall be licensed and certified according to State. The appraiser shall afford the property owner the opportunity to accompany the appraiser for the site inspection. The appraiser shall value the part taken and any diminution of value attributed to the remainder property due to the acquisition.
 - 6.5 Appraisal Review - The appraisal shall be reviewed by an independent licensed and certified review appraiser to ensure that all USPAP appraisal standards have been met and the appraisal is free from any errors and defects.
 - 6.6 Title commitments and 5 year sales history for all parcels shall be ordered by the ROW Acquisition Team from a reputable title company with experience in the ROW acquisition process. The ROW Acquisition Team shall deliver copies of signed and sealed property descriptions to the title company for their use. The title commitment shall list ownership, liens, and any other encumbrances to the property.
 - 6.7 The Survey and Mapping provider shall conduct these activities in accordance with ROW-01, Survey and Mapping.
 - 6.8 The ROW Acquisition Team shall perform a preliminary review of all appraisals, titles, surveys and maps for accuracy and completeness. If any errors are found, they shall be returned to the responsible party and addressed.
 - 6.9 The ROW Acquisition Team shall then generate a preliminary Offer List which shall be submitted to NTTA Legal Counsel along with all titles, appraisals, surveys and maps for review. Should NTTA Legal find any errors or issues, the documents shall be returned to the ROW Acquisition Team for correction and re-submittal.
 - 6.10 Once approved by NTTA Legal Counsel, the ROW Acquisition Team shall prepare ROW Offer Packages and present them to the NTTA Board for approval. Any issues identified by the Board shall be addressed by the ROW Acquisition Team.
-

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 4 of 9 |
| Title: ROW Acquisition | | |

- 6.11 Once Board approval has been obtained, the ROW Acquisition Team shall prepare the Acquisition Packages for the property owners including:
- 6.11.1 Appraisals
 - 6.11.2 Plan Sheets
 - 6.11.3 Relocation Brochure
 - 6.11.4 Acquisition Brochure
 - 6.11.5 Appraisal Acknowledgement Letter
 - 6.11.6 Offer List
- 6.12 Negotiation – The ROW Acquisition Team shall obtain an offer letter from NTTA’s Legal Counsel and shall initiate negotiations with the owners and other interested parties on all parcel acquisitions. This shall include meeting personally with the property owner (or designated representative), if possible, and delivering a copy of the appraisal and the offer letter. The property owner shall be given ample time (30 days) for consideration of the offer and accept the offer, or may submit a justifiable counteroffer. The ROW Acquisition Team shall continue to work with the property owner in an attempt to close the transaction until an impasse is reached or as the project schedule dictates, if an impasse is reached, see step 6.17, Eminent Domain. Should negotiations extend such that the parcel delivery date would be delayed, the Corridor Manager and ROW Manager shall be notified by legal counsel at least 60 days prior to the parcel delivery date. If relocation is necessary, then reference QMS *ROW-05, Relocation Process*.
- 6.13 Any counter letters offered by the owner shall be reviewed and either approved or rejected by NTTA Legal Counsel. If the counter offer is rejected, then NTTA Legal Counsel shall prepare a Final Rejection Letter to be issued to the owner and the Eminent Domain process shall be followed.
- 6.14 The ROW Acquisition Team shall make a recommendation to approve or reject any and all counteroffers to NTTA’s Assistant Executive Director of Project Delivery and/or the Executive Director the Authority depending upon the dollar value of the counter-offer. If the counter offer exceeds \$100,000.00, then the ROW Acquisition Team shall obtain approval of both the AED and the ED. If less than \$100,000.00 only the approval of the AED is required. If acceptance of a justifiable counteroffer will result in the total compensation exceeding \$300,000, then the ROW Acquisition Team shall assist with the preparation of a draft resolution to obtain the required NTTA Board approval prior to execution. Upon acceptance by the owner of the original offer or acceptance by NTTA of a justified counter offer, NTTA Legal Counsel shall prepare a Final Acceptance Letter to be provided to the owner.
- 6.15 Transfer of Title - Upon successful negotiations and approval, the ROW Acquisition Team shall request a sales contract from NTTA’s Legal Counsel and the designated title company to ensure that clear title is obtained. This shall include coordinating the execution of final curative documents with the property owner, lien holders, easement holders or any adverse claimants.
-

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 5 of 9 |
| Title: ROW Acquisition | | |

6.16 Closing – The ROW Acquisition Team and NTTA’s Legal Counsel shall prepare requisitions for payment in accordance with the trust agreement, which requires that “a statement be signed by the Consulting Engineers, ROW-03-F2, certifying that in their opinion the acquisition of such property is necessary or advisable in connection with the construction or operations of the project”. The ROW Acquisition Team shall also work with NTTA’s Legal Counsel and the designated title company to ensure that the closing is coordinated between the property owner and title company closing agent.

6.17 Eminent Domain – When negotiations are unsuccessful and eminent domain proceedings become necessary to acquire the parcel, the ROW acquisition team shall request that the NTTA Board authorize eminent domain activities. Thereafter, the eminent domain package shall be prepared and eminent domain proceedings shall commence in accordance with *ROW-04, Eminent Domain* procedure.

6.18 Parcel File – The ROW Acquisition Team shall maintain a parcel file which includes copies of all correspondence, appraisal reports, title commitments, offer letters, counteroffers, and negotiator reports, etc. Upon closing of the parcel acquisition and upon receipt of the recorded conveyance documents and final title policy, the ROW Acquisition Team shall prepare the Right-of-Way File Close-Out Checklist for Acquisition, ROW-03-F1 and review the completed parcel acquisition file in accordance with *ROW-07, ROW Project Closeout* procedure.

7.0 REGULATORY REQUIREMENTS:

7.1 FHWA Uniform Relocation Assistance and Real Property Acquisition Policies Act Of 1970 as amended. (Uniform Act) – ([HTTP://WWW.FHWA.DOT.GOV/REALESTATE/UA/URAGUIDE3805.PDF](http://www.fhwa.dot.gov/realestate/ua/uraguide3805.pdf))

7.2 NTTA Amended and Restated Trust Agreement, Section 409, Requisitions for Payment for Real Property.- (<http://www.ntta.org/NR/rdonlyres/2DAD389A-289A-4FA3-8D45-11FEE11287E2/0/NTTAamdRestdTrustagtwthFirstSupplement.pdf>)

8.0 RELATED BOARD POLICY:

N/A

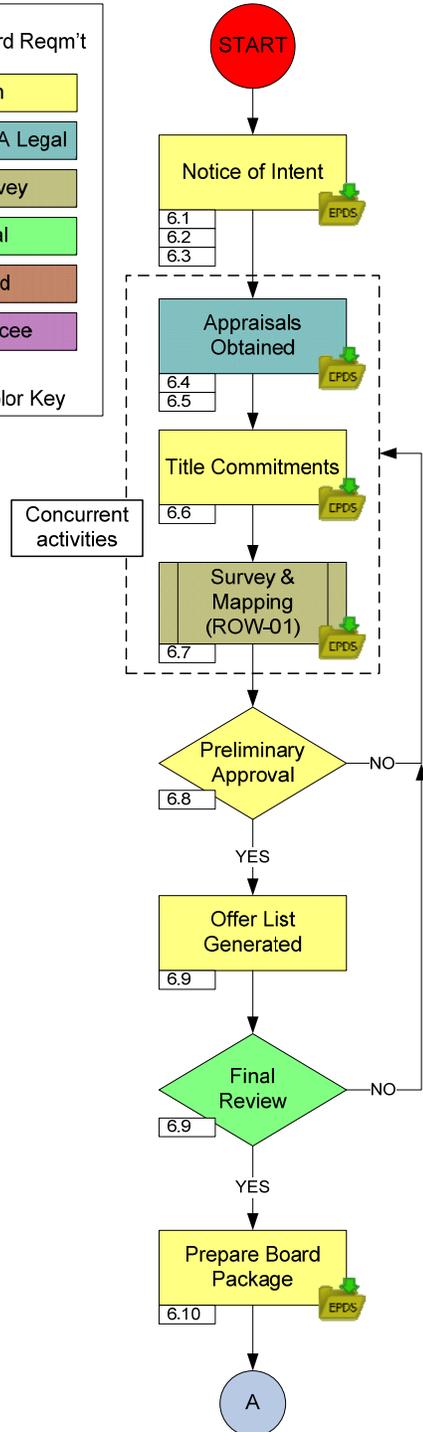
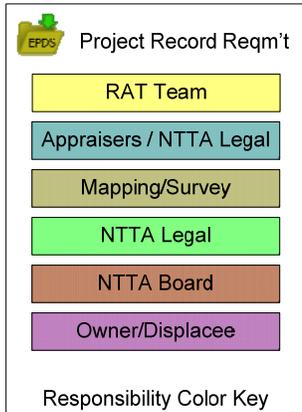
9.0 COMPONENT DOCUMENTS:

[ROW-03-F1](#) ROW File Closeout Checklist for Acquisition

[ROW-03-F2](#) Consulting Engineers Statement: Right-of-Way

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 6 of 9 |
| Title: ROW Acquisition | | |

10.0 FLOWCHART:



RAT Team: (Process Inputs)

- Right-of-Way team receives Notice of Intent from NTTA Board approving process to begin
- Priority parcels identified
- Right-of-Entry letter approved prior to entering property
- Coordinate with CM to develop ROW Project Schedule

Appraisers/NTTA Legal:

- Appraisals obtained for each parcel within right-of-way authorized by the "Notice of Intent" letter

RAT Team:

- Titles obtained for each parcel within right-of-way authorized by the "Notice of Intent" letter

Mapping Provider:

- Reference QMS procedure ROW-01 for details of Survey & Mapping process

RAT Team/NTTA Legal:

- Preliminary review for accuracy and completeness of appraisals, surveys, titles and maps

RAT Team:

- Preliminary Offer List generated

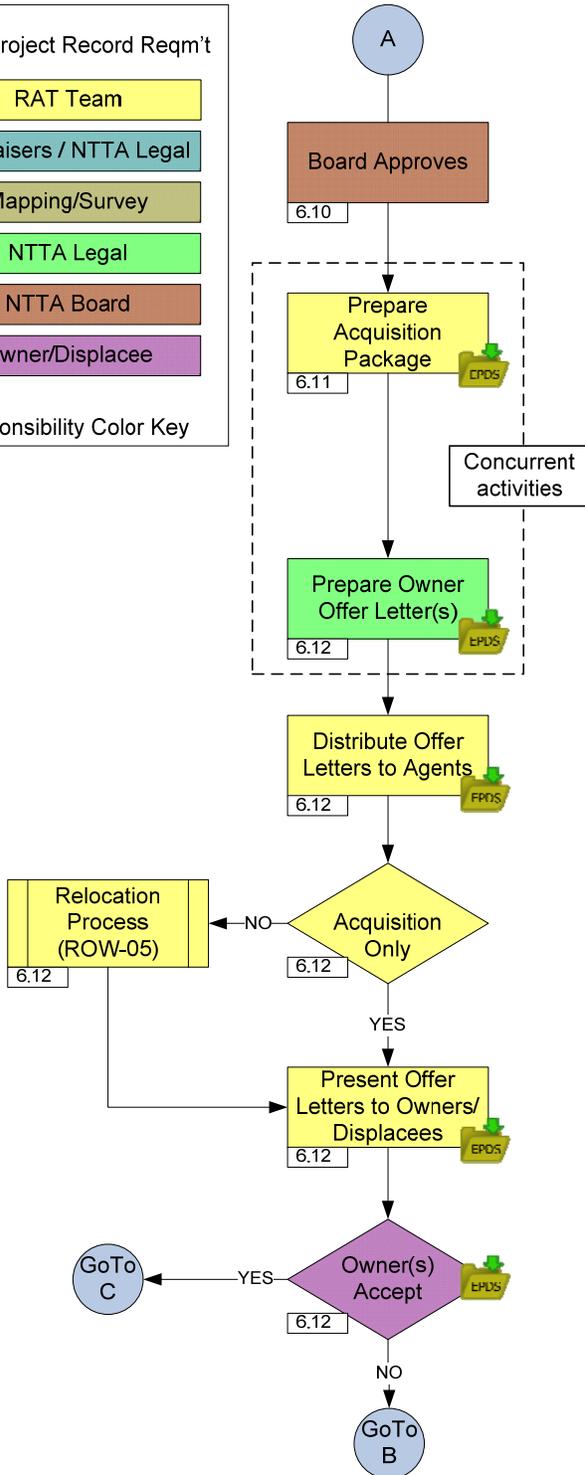
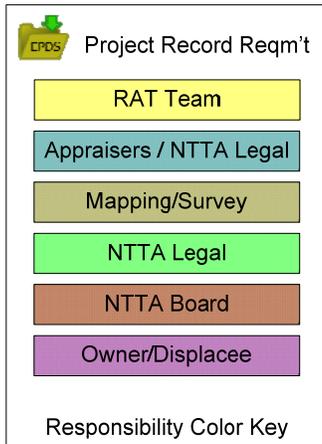
NTTA Legal:

- Reviews preliminary Offer Package, inclusive of appraisals, surveys, titles, maps and offer list for accuracy and completeness

RAT Team:

- Prepare ROW Offer Package
- * Offer List

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 7 of 9 |
| Title: ROW Acquisition | | |



NTTA Board:

- Board reviews and approves ROW Offer Package
- If requested by the Board, additional parcel information maybe be requested prior to approval

RAT Team/NTTA Legal:

- Prepares Acquisition Package for Owners
 - * Appraisals
 - * Plan Sheets
 - * Relocation Brochure
 - * Acquisition Brochure
 - * Appraisal Acknowledgement Letter
 - * Offer List

NTTA Legal:

- Prepares owner offer letters for distribution to agents

RAT Team:

- Sends Acquisition Package and Offer Letters to Agents for distribution to Owners
- Receipt of acknowledgement must be documented

RAT Team:

- If relocation is necessary, proceed with Relocation Process (reference QMS document ROW-05)
- If acquisition only, continue with next step

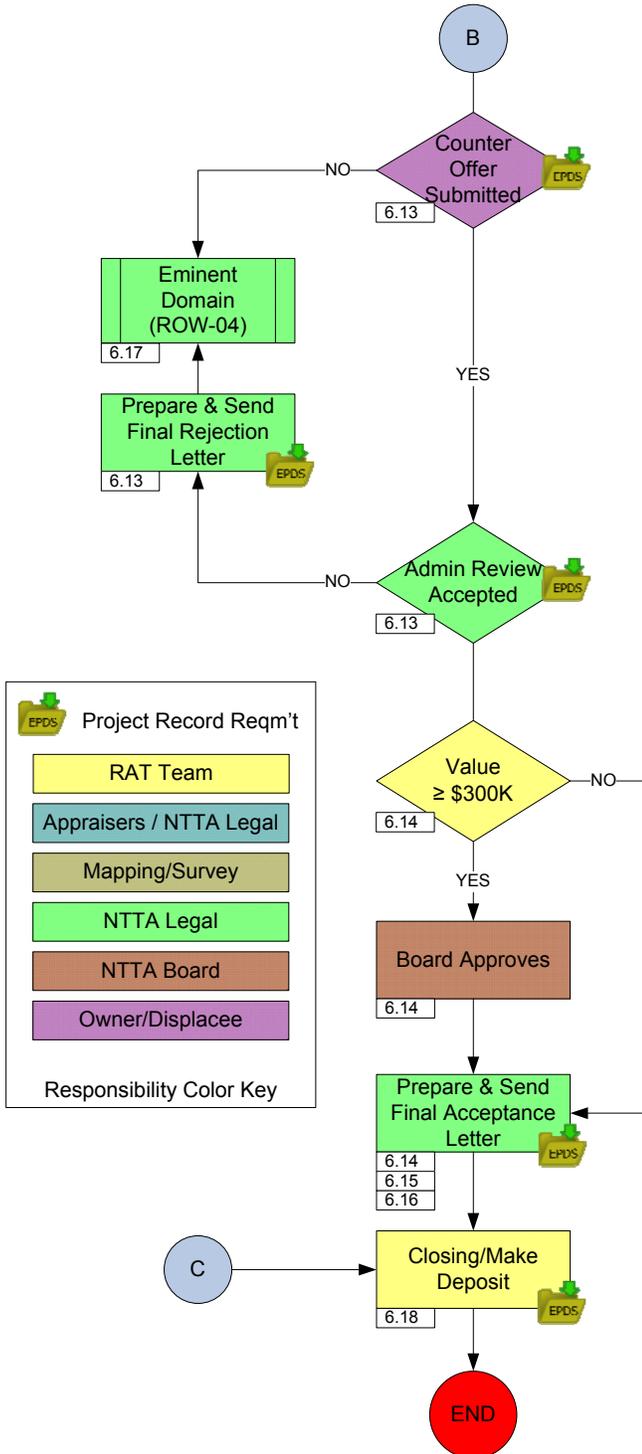
RAT Team:

- Offer Letters presented to Owners
- Receipt of acknowledgement must be documented

Owners / Displacees:

- Offer Letters signed, if accepted

| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 8 of 9 |
| Title: ROW Acquisition | | |



Owners / Displacees:

- Has counter offer been submitted by the Owner/Displacee

NTTA Legal:

- Proceed with Eminent Domain Process (reference QMS document ROW-04)

NTTA Legal:

- Prepares Final Rejection Letter
- Presents Final Rejection Letter to Owner/Displacee
- Proceed with Eminent Domain Process

NTTA Legal:

- Determines to accept counter offer letter

RAT Team:

- All counter offers greater than or equal to \$300,000.00 must have NTTA Board approval
- Coordinate with Consulting Engineer to prepare Engineer's Statement for each parcel being acquired

NTTA Board:

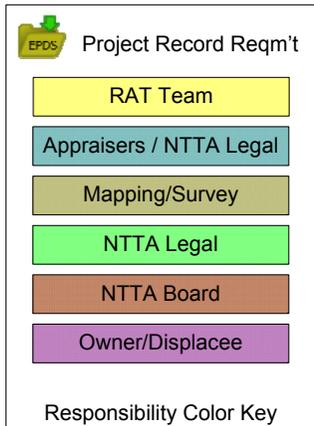
- Board reviews and approves counter offer package
- If requested by the Board, additional information maybe be requested prior to approval

NTTA Legal:

- Prepares Final Acceptance Letter
- Presents Final Acceptance Letter to Owner/Displacee

RAT Team/NTTA Legal:

- Proceed with closing utilizing Checklist ROW-03-F1



| | | |
|------------------------|-----------------------------------|-------------|
| NTTA Projects | Original Issue Date: 06/05/2008 | ROW-03 |
| Resource: ROW | Revision 3 Issue Date: 04/23/2010 | Page 9 of 9 |
| Title: ROW Acquisition | | |

11.0 REVISION HISTORY:

| Revision | Revised by: | Date Issued | DRN | Reason for Revision |
|----------|----------------|-------------|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 0 | Dave Clarke | 06/05/2008 | | Original Issue |
| 1 | Gary Reinhardt | 09/12/2008 | | Specified ROW Acquisition Team |
| 2 | Dave Clarke | 03/22/2009 | 10098 | Added reference to NTTA Amended and Restated Trust Agreement, Section 409. Added definitions and Acronyms. Revised overall content. Added offer package process. Added addition content and reference to required NTTA Board approval on Negotiation process. Added Parcel File process to include reference to ROW Project Closeout Procedure |
| 3 | Dave Clarke | 04/23/2010 | 10136 | Edited 2.2 to remove last sentence from ROW Acquisition Team's responsibility. Added Consulting Engineers responsibility. Added ROW-03-F2, Consulting Engineer Statement: Right-of-Way to component documents. |