

# Acquiring Right of Way in México

A case study from a border project in Tijuana

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Public infrastructure projects rely heavily on securing rights of way, which is one of the main sources of uncertainty, delays and unbudgeted costs. Before starting a large-scale infrastructure project, right of way (ROW) staff must research property ownership, compile title reports, appraise properties and negotiate with landowners, ensuring fair treatment for those involved. ROW specialists must have expertise in real estate, law and negotiation, while striving to navigate potential challenges with mitigation tactics, including transparent communication and adherence to legal regulations for smoother progress.

Of course, we all know that, and we are familiar with the process. But in Mexico, and especially in the project we are about to analyze, we faced challenges beyond this knowledge.





## The Context

Tijuana is a border city located in the northwestern peninsula of Mexico. It is a dynamic region that ties two countries closely together: Mexico and the United States. Tijuana is the second-most populated city in Mexico, with nearly 2 million residents (2020) and is the most visited border city in the world.

Commerce, tourism and hand labor industry (maquila) are the main economic drivers. Tijuana offers job opportunities for people from all over the country and has become a city of passage—which many times becomes a residence—for thousands of migrants from all over the world. Tijuana shares a border spanning approximately 24 km with San Diego, its twin city. This makes it a strategic point for migration: calculations report that nearly 100,000 people pass through the San Ysidro crossing each day.

## Project context

In October 2022, President Andrés Manuel López Obrador announced the Tijuana Elevated Viaduct and a new border crossing, “Garita de Otay,” as priority projects for his federal government; this is part of a larger plan to reduce the time and costs of transit from and through the border. The objective of the Viaduct is to free up traffic on the roadway between the Tijuana International Airport, the Puerta México-San Ysidro border crossing and Tijuana Beaches, the highway to Ensenada and our Mexican Napa Valley—the Guadalupe Valley. The roads typically see over two hours of traffic, similar to what you would expect in San Francisco and Los Angeles.

The project had been part of the government’s plans for over 40 years, but there were challenges with securing the ROW. The population in the area came to believe that it would never be completed. The first challenge was to renew interest in the project, which the federal government did handsomely by aligning all government levels through a collaboration agreement signed at the end of 2022: all federal, state and municipal government agencies with jurisdiction in the area agreed on putting all their efforts to make the project a reality. The two main entities were the Federal Ministry of Infrastructure, Communications and Transportation

(SICT), which was in charge of securing the ROW and approving the projects engineering, and the National Defense Ministry (SEDENA), which was in charge of building the project.

## Characteristics

The Viaduct is projected to have a total length of 10.5 km divided into three sections, affecting 200 plots. It is a complex project, involving sections with double levels, tunnels, elevated bridges, internal closed circuits and entry and exit ramps. The toughest area, from our perspective, was the 2.5 km touching the famous wall, with 95 housing units. This project will help the Mexican government regain control over one of the last urbanized areas adjacent to the U.S. Mexico border.

The total length of the project is 6.5 miles with a total capacity of 7,200 vehicles/hour at a speed of 50 mph. The viaduct will have four lanes, two in each direction, with each measuring at 11.5 ft wide. The viaduct, when built and operable, will reduce travel time between the Tijuana Airport and Tijuana Beaches from 45 minutes to 15, allowing redistribution of traffic and improving overall transit. The viaduct will also reduce the greenhouse effect emissions generated by vehicles stopped in traffic. The project will decrease travel costs by one fourth, as it will be a completely toll-free road.



## Goal, challenges, team

The SICT entrusted our firm, O’Gorman&Hagerman, with the challenge of releasing the ROW in less than a year. New to the city, we put together a multidisciplinary team formed by lawyers, ROW agents, sociologists and engineers. SEDENA had installed a camp near the project and allowed our team to work from within it, which helped us a lot in gaining the peoples credibility. The camp also had an information kiosk, which was a nice touch that allowed project updates to be shared. The camp also served as a location where we could take owners and possessors to explain the scope of the project.

We faced many challenges. All eyes from the government were on us — there was pressure to speed up the process, opposition from certain residents, palpable insecurity in the area of influence, and intense movement from people and migrants through the area. We had to design a strategy in line with the task, avoid intermediaries who could jeopardize our negotiations, and at the same time, maintain the confidence of all government agencies, many of which were skeptic of our ability to deliver on time. The agencies all helped when needed with tasks within their area of competence and did not obstruct the process. One of the most unrecognized trademarks of our past government was its ability to make all agencies work together toward the same goal. This project will remain as a great example of what can be accomplished when that happens.



In this context, our working plan prioritized direct contact with the neighbors to provide information, address expectations and make commitments. The socialization work of the project was key, generating empathy to achieve trust in the processes we conducted. It was crucial to be honest and communicate everything the ROW release process entailed, clearly but firmly, while interacting with SICT officials on a constant basis to ensure compliance with agreements reached was fundamental.



We worked on planning and coordinating the relocation of the population through the search for suitable housing, including relocation expenses. We also proposed a plan for the integration of the project with the Tijuana population through the improvement of urban areas of the Libertad neighborhood. Seeking beneficial conditions for the population, we proposed the creation of an ecological park and a wastewater treatment system in the Matadero Canyon.

The first contact with the people involved in the ROW was neither easy nor positive. There were weeks of daily visits to the homes of those involved in the Viaduct layout, trying to generate enough trust so that they would allow us to explain them the scope and consequences of the project. The task was made harder by the difficulty of access to some of the plots, including a mountain region without paved roads or public lightning nor drainage, which would lead to landslides and flooding in rainy seasons. On top of these issues, there were also social challenges in the area, similar what one would expect while trying to gain access to some of the toughest neighborhoods in the U.S.

## Reaching the goal

Step by step, with perseverance and effort, we were able to reverse the trend and generate the necessary trust to be heard. Empathy was key as well as understanding the concerns and uncertainty that people felt because they didn't know what the future would bring due to the project, nor if they would love to move and how it would affect their lives. There were also preexisting concerns of people who were accustomed to being mistreated and not being paid their fair share.

Understanding the implications of such a radical and time-sensitive change was also challenging for the team. We needed to understand the problems specific to each plot to propose an appropriate solution in fair terms for all parties involved. We worked 18-hour days, seven days a week.

Gradually, the doors opened, and interest began to rise. With that came confidence that the project would become a reality, and there was growing trust that the team would respect their rights in the process — so much so, that they began to seek us out. We





snowballed in momentum and eventually signed agreements with all those involved. In the process, we were able to empathize with their personal situations, and no story was alike: a single mother with no support for her children; a police officer who had to retire due to a disability; an elderly couple who had little choice when it came to finding land that was safe enough to build their final home upon; and an old blind woman whose life had been a constant nightmare after her husband had been murdered. Despite the differences, they all had something in common — the fear of not knowing what would become of their lives when we finished the task we came to do.

As the days went by, we saw more openness, and those involved in the ROW began to realize that we were sincere, and we would help them through the acquisition process as smoothly as possible. The neighbors began to communicate with each other, transmitting the trust we had generated in them. Some began to move, and others started the process; though there was some resistance, we nevertheless persisted. We built bridges and looked for common ground to solve any issue concerns.

Without a doubt, the Tijuana Viaduct is a project that left us with many lessons as professionals in the ROW industry. It is essential to have open dialogue and active listening, as well as to maintain communication channels with those involved generating complicity and empathy, even when declared as enemies and opponents of the project.

At O’Gorman&Hagerman, we understood that it is important to seek the collective and comprehensive benefit of the local population, in addition to integrating the projects in which we had to access the dynamics of the community. We had to understand our work as part of a complex system with a thousand moving pieces, some of which were unknown and were better kept that way. We consider it essential to have direct contact, personalized service and create local alliances to connect with people and generate trust. It is important to generate clear agreements, with a long-term horizon to make them sustainable and to comply with them in a timely manner.

## Tijuana’s Viaduct Update

At the end of 2023, we delivered the legal possession of 100% of the ROW, with the consent of all the owners and possessors living there, to the federal government. As of August of 2024, the construction work of the viaduct has a 45% progress and is expected to be operational in early 2025. As for the people who moved, we keep in touch with many of them, and they are grateful and happy to be able to continue with their lives in their new locations. This project will remain as a testament that even in the toughest conditions, ROW can be secured through fair and transparent negotiations, taking into account not only the rights but also the feelings and interests of all involved, specially of those in vulnerable situations. 🌱

<sup>1</sup>The SICT is the ministry in charge of promoting safe, efficient and competitive transportation and communications systems, expanding the coverage and accessibility of services.

<sup>2</sup>The SEDENA acted in this administration as the Federal Government main contractor, commissioned to build the most relevant infrastructure projects of President Obrador administration.

*Join us for a live webinar on December 11, 2024, to hear more about the border project in Tijuana. For details on how to register, please visit [irwaonline.org/events](https://irwaonline.org/events).*



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