

Real Estate and Right of Way Acquisition

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A guide for utilities



The capacity of a utility to establish, maintain and manage relationships with stakeholders, including landowners, can be critical to a right of way land acquisition project's success. Easement considerations are a major source of concern for landowners during utility development projects.

Because landowners can have an impact on the planning, design and construction of a utility project, it is critical from the onset for landowners to understand the full scope and scalability of the utility project. The stakes can be high, and the process arduous for everyone involved — from landowners to municipalities to the utility owners themselves — if easement acquisitions are not handled properly. Working with a firm to manage all aspects of a utility development project efficiently and effectively is important.

Efficient land acquisition is crucial to utility development projects. An integrated real estate team can provide a reliable, scalable process with a flexible, tailored plan designed to meet your needs. The acquisition staffing requirements will be dependent upon the type of project, the size, number of landowners, location and the level of impact the project may have to the community it serves. The project schedule and budget play a role in determining staffing needs as well as potential litigation factors. Establishing and maintaining relationships is extremely important in the acquisitions process. Transactions, such as easements, can be very personal and unique to each landowner. Making time to listen and provide correct information throughout the process is essential.

Handling Utility Right of Way Negotiations

Trust on all sides is imperative. Utilities must do their due diligence and conduct thorough background checks on the companies they hire for land acquisition support. As a utility owner, you want to make sure you trust your consultant and confirm that they can really deliver what is promised. Conversely, landowners need to feel they can trust you and your representatives. Remember, when partnering with a consultant, the consultant reflects your company, and bad interactions with landowners or negative media attention can harm your reputation and complicate negotiations.

Whether you are negotiating with homeowners, business owners, attorneys for the government or large corporations, forging relationships built on trust will make the entire process less contentious. Without landowners' trust, it will be difficult to get the easement rights you are trying to acquire.



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Steps to Acquire Land for Utility Projects

1. Survey all the property that could possibly be impacted by easements.
2. Draft base maps and property sketches.
3. Pull tax cards and relevant personal information such as the landowner's name and parcel ID number, deed information and details about other easements.
4. Create a line list to identify every affected property and make some preliminary value assessments. During this process, easement documents for each property are prepared.
5. Review the chain of title, which looks at a property's history dating back at least 30 to 50 years. During this step, it is critical to check for encumbrances, liens and other property issues that could affect negotiations.
6. Draft legal documents and appraisals. There is usually a high-low range established. Factors to consider include the existing fair market value, the easement's impact on resale and landowner attorney fees — which in Florida, for example, are always covered by the utility company.
7. Make acquisition offers. This is usually the longest part of the process.
8. Record the easement at the local courthouse, within 24 hours of an acquisition.



Landowner Questions for Utilities

As one can expect, landowner anxiety is often high during real estate right of way land use negotiations. Questions a utility company should be prepared to answer to keep projects moving forward include:

- How will the utility evaluate properties?
- What are other neighbors getting paid?
- Will the easement affect property resale values?
- How much disruption will there be to daily life during construction?
- Who do I call if construction damages property in or outside of the easement?
- Is building or planting allowed in the easement?
- Will my current vegetation be removed or replaced?
- Are there privacy considerations or advanced notification when you enter my property?
- Who handles easement maintenance?
- Will the end use be safe (electric and magnetic fields, potential leaks, explosions and/or soil contamination, etc.)?
- What if I am uncomfortable granting you an easement?

An experienced senior right of way project manager will answer these questions knowledgeably with credibility and transparency. Anticipating and being prepared for the landowners' potential questions before meeting will help facilitate the discussion with ease. A good plan of action is to familiarize yourself with the surrounding area and other impacts to land — on or near their property — that are taking place in the community. It's best to be patient with the

landowner's questions, as this will help with the landowner's anxiety and the overall process. It is equally important to provide prompt follow up if there are any questions still outstanding. This will build confidence and trust to allow you to complete the transaction.

Right of Way Acquisition Company Considerations

Utility companies need experienced professionals adept at handling land use purchasing for right of way projects — which could include full facility easements, supplemental easements, aerial easements, temporary construction easements or the purchase of entire parcels of land to build substations or solar farms.

Look for a partner with depth of experience in land use and right of way management. A utility company's representatives should really know the industry and be committed to seeing that landowners understand the process, whether it be for residential, commercial, governmental or public lands. Ideally, utility companies should work with a partner that can serve as a one-stop source of support, providing turnkey project delivery that involves all elements of a utility development project from design and engineering to real estate acquisition, procurement, public involvement, construction, startup and commissioning. 🌟



Roger Wright, a senior right of way specialist with Burns & McDonnell, offers insights into the land use right of way process. He works with utility, pipeline, transmission and distribution projects, capitalizing on more than 30 years of experience in real estate/right of way project management. Wright's ability to manage land services projects on schedule and budget is an asset to his clients. Interested in working with Roger? Contact him at rawright@burnsmcd.com or 407-907-0701.