

## **ADA on Preservation Projects - Process Option**

### **Introduction**

WSDOT has many statewide preservation projects that are in various stages of design that are required to address ADA sidewalk curb ramp improvements within the project limits. Several of these State Routes do not have Right of Way (ROW) Plans or survey data. Through various aerial mapping overlays it appears evident there are varying possible encroachments where sidewalks may be on private property or various improvements/features may be on state-owned land. Because of this uncertainty there are many locations where we may, or may not, need to be on private property to reconstruct ramps, or the sidewalk may already encroach on private property. As well, there are locations where private improvements/features may be within the state ROW.

WSDOT agrees with the state and federal requirements of paying just compensation (JC) prior to acquiring or damaging private property for a public project. The typical WSDOT process would require a ROW Phase in order to facilitate this process, the determination of ownership by title and property lines, payment of JC, and the clearing of all encroachments within the ROW throughout the limits of the project. This implies the need for title reports, a Record of Survey, approved ROW plans, possession (either temporary, permanent, voluntary or through OAPU and a P&U) in order to issue a ROW Certification that, at a minimum, certifies all necessary rights to construct, operate, and maintain the facility have been acquired (and, of course, relocation complete in projects where applicable). This would be an entire process that could equal, or more likely exceed, the effort and costs to acquire property rights alone.

### **Safeguards for Property Owners**

This process option will offer property owners all the protections of federal and state laws and payment due. WSDOT is confident we can provide the same protections to property owners and tax payers of Washington State through Construction Permits, establishing JC (supported by Administrative Offer Summaries and/or appraisals and review), fair payment and in compliance with the Uniform Act.

### **Requirements**

- Use state funds only on any phase of the ADA sidewalk curb ramp improvement project and any other project(s) constructed as part of the same construction contract (e.g. companion preservation projects). Clearing of encroachments would be completed separate from the preservation and ADA projects. This avoids significant delay to providing the pavement and ADA project benefits to the public.
- For projects approved to use this process option, the current footprint is assumed to back of sidewalk. This process option requires that WSDOT acquire temporary rights outside of the current footprint for improvements in the current footprint. If any permanent rights are needed outside of the current footprint, a ROW Phase will be required and the typical acquisition process will be followed.
- The ADA and potential companion preservation project will only utilize this policy option and move forward with construction if a minimum of 90% of the project's ADA curb ramps will be upgraded within the existing footprint or permitted utilizing temporary rights (i.e. construction permits).
  - All remaining ADA curb ramps must be addressed. Project managers must program a new project to address all remaining ADA curb ramps with a real estate phase to pursue a

temporary easement(s) and/or permanent property rights prior to advertising the initial ADA sidewalk ramp improvement project. The advertisement date of the new project must be scheduled based on the duration necessary to acquire necessary right of way.

- Risks associated with construction permits (i.e. non-transferable, revocable, etc.) are understood and managed through construction contracts.

### **Process**

- Last deed of record will be used to determine property ownership, no title reports.
- Utilize Construction Permits to describe the construction and cover any potential permission needed by the adjacent land owners, see attached template. No notary or recording required.
- Use of aerial photos as exhibits or standard exhibits to indicate work area. No survey or ROW Plans are needed.
- In alignment with the WSDOT Right of Way Manual and conducted by Region RES Office:
  - The Administrative Offer process will be followed to determine just compensation, unless the Senior Appraiser or RES Manager determines an appraisal and review is required. Minimum payment policy will be followed.
  - Offer will be made in writing. Diary must be kept for each acquisition and acquisition will be in compliance with the Uniform Act.
- All expenditures associated with payments to parcel owners shall be paid via the project's PE Phase funds.
  - Note: A new object code will be created and must be utilized, for IRS reporting purposes.
- Complete certification spreadsheet as verification that necessary rights were obtained. Send to HQ RES electronically for tracking purposes. HQ RES will be performing Oversight Feedback Reviews on at least 25% of the parcel files.

### **Performance Measures**

For each project delivered using the process option, the following performance measures will be provided by the Region Project Office:

- Total number of ADA curb ramps included in project, number of ADA curb ramps delivered and associated percentage of the ADA curb ramps delivered.
- Reduction in the time (from start of PE phase to construction advertisement) required to secure construction rights/permissions, as measured by the actual time necessary to deliver the project versus the anticipated time to deliver using other delivery methods.
- Savings in project costs (all phases), as measure by the actual expenditures versus the anticipated costs to deliver using other delivery methods. Savings can include, but not limited to, such considerations as staff time, work avoidance, additional pavement rehabilitation and other costs associated with delaying delivery for ADA project and companion preservation project(s).

### **Results & Reporting**

WSDOT Region Project Offices will provide written documentation summarizing the results of this ADA process option based on the outlined performance measures contained in this memorandum. This documentation will be provided to Headquarters Real Estate Services Acquisition Program Manager within 60 days of submitting the certification spreadsheet.

# CONSTRUCTION PERMIT & RIGHT OF ENTRY

**Project:** <PROJECT NAME>

Upon payment of \$\_\_\_\_\_, the Grantor, <NAME> grant(s) unto the **State of Washington, Department of Transportation (WSDOT)** and its assigns, the right, privilege and permit of ingress and egress over, under, across and upon the hereinafter described lands from the date hereof until (Termination Date), for the purpose of reconstructing sidewalks and/or sidewalk ramps. This is necessary to meet current Americans with Disabilities Act (ADA) requirements for highway improvements.

Said lands being situated in \_\_\_\_\_ County, State of Washington, and described as follows:

County Assessor's Parcel No. <PARCEL NUMBER> and as LOT <LOT NUMBER> BLK <BLOCK NUMBER> and Property Address: <PROPERTY ADDRESS>, City, WA (Premises).

The ramp construction activities on/near the Premises are likely to be up to 15 calendar days. It is understood that the WSDOT or its agents will make every effort to minimize the impact to the property. Furthermore, the WSDOT or its agents agree to restore the structure, grading, landscaping and other improvements damaged by the entry to at least as good a condition as such structures, grading, landscaping and other improvements were in immediately prior to the Grantee's commencement of work. See attached **Exhibit A** for depiction of the work area.

\_\_\_\_\_  
Dated:

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address