

# Fisher Insight

## RIGHT OF WAY (ROW) ACQUISITION FOR LDSA PROJECTS — WHAT YOU NEED TO KNOW

If right of way (ROW) acquisition is required on your next LDSA project, this task should be elevated to the critical path at the onset due to the amount of time it may take. The entire process of final ROW acquisition can take up to one year from initially identifying the ROW need to completing ROW maps and meeting with property owners. Preparation and planning are key to making sure that your project is not thrown off track due to unsecured right of way whether you are managing a Local Design Services Agreement (LDSA) or any other type of transportation project that impacts properties.

### Navigating Your Way Through the Right of Way Process

Right of way must be addressed early on and the process should begin with the municipality or local sponsor's funding application including a thorough evaluation of the boundaries of their public ROW and adjacently owned private ROW with respect to the proposed project and the anticipated solution. It is essential to verify that all features of the project scope will be located within the publicly owned ROW. Such verification can only be done by obtaining an updated and accurate survey while you evaluate design concepts and construction impacts. If any features are anticipated to extend beyond the publicly owned ROW onto private property, ROW acquisition may be necessary unless the design can be adjusted to avoid such ROW impacts. In addition, impacts to adjacent public lands owned by a different public entity cannot be disregarded. In these cases, an Intermunicipal Agreement between the public entities for use of the lands may be necessary. If the adjacent lands are parklands this adds another element that must be addressed, proving that there are no adverse impacts to the land.

The ROW process can be tricky and it takes someone knowledgeable of the requirements, the challenges, and the solutions to keep a project on track.

Just because a municipality owns and maintains certain infrastructure, such as a sidewalk along a roadway, does not necessarily mean that all the infrastructure was constructed within the publicly owned ROW. And, since the regulations have changed over the years, proper rights for the encroachment of the infrastructure onto adjacent privately owned properties may not have been obtained

“ If ROW isn't obtained in a timely manner, project schedules can be severely impacted. The Fisher team knows what to look for and how to satisfy federal requirements to keep your project on track.

ROSEANN SCHMID, P.E., CEO,  
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at the time of original construction. Properly identifying whether items such as curb ramps and sidewalks are actually located in the publicly owned ROW is crucial. In the instance of bridges, while the bridge may be situated in the public ROW, the ends of the wing walls may be located on private property. Obtaining consent from private property owners by obtaining either temporary easements for temporary construction-related access and/or permanent easements for permanent encroachment of infrastructure onto their property is key to moving projects forward. There are required steps in this process that must be followed and properly documented so as not to jeopardize funding.

The ROW process for federally funded projects includes key milestones that must be reached before the next step can begin. When it comes to ROW, it is important to note that there are two ROW authorizations for a project and you cannot proceed with certain activities until these authorizations are granted:

- The ROW incidental phase authorization which allows for the maps to be created, and title searches and appraisals to be completed.
- The ROW acquisition authorization which must be received before offers are made to property owners.

### The Fisher Difference

Fisher's extensive experience in managing LDSA projects has cultivated a comprehensive understanding of those project elements that typically fall outside the publicly owned ROW and require ROW acquisition from adjacent private landowners. Every project initiates with a thorough verification of the public ROW boundaries and proceeds to minimize ROW impacts to the greatest extent possible. Where impacts cannot be avoided, the ROW process is begun early and is continually shepherded through this process to ensure that each step is completed in a timely manner avoiding adverse impacts to the project schedule. With Fisher, you get the following benefits:

- Familiarity with the entire ROW process.
- Knowledge of federal requirements.
- Experience identifying typical features that are commonly assumed to be in the ROW.



For information about the Fisher difference and how to take advantage of Fisher's expertise on LDSA projects, contact Emily Smith, PE, Fisher Associates Vice President and Director of Transportation at [esmith@fisherassoc.com](mailto:esmith@fisherassoc.com).