Table of Contents

3201 Introduction **1**

3202 Fee Simple Title **1**

WL - Fee Simple With Limitation of Access 1
WD - Fee Simple Reservation of Access 1
BS - Bill of Sale 1
PRW - Property Right Fee Simple 1
E - Fee Simple Excess Land 2
EL - Acquired Fee Simple Excess Land 2
ER - Fee Simple Uneconomic Remnant 2
ES - Excess Land Sold or "Swapped" [See Ohio Rev. Code Section 5501.34] 2

3203 Easements **2**

SH - Standard Highway Easement 2
LA - Limited Access Easement 2
T - Temporary Easement 3
SL - Slope Easement 3
S - Sewer Easement 3
CH - Channel Easement 3
FL - Flowage Easement 3
U - Easement For a Railroad or Public Utility 3
A - Aerial Easement 4
PRE - Property Right 4
SC - Scenic Easement 4

3204 Additional Modifiers **4**

V - In The Name of Another State Agency, LPA, etc. 4
R - Special Reservation 4

3205 Agreements **5**

WA - Work Agreement 5
SA - Special Agreement and Waiver of Damage 5

3206 Special Deviations **5**

3207 Forms **5**

3201 Introduction

The Ohio Department of Transportation uses two different types of title when acquiring permanent highway rights of way. The first type is fee simple title. The second type is an easement for highway purposes that conveys, in perpetuity, the right to construct and maintain a highway facility on the land of the fee holder. The general policy of the Department is to acquire permanent highway rights of way in fee simple title. Easement rights of way can be used when fee simple title is not practical. Typical examples can be bridge projects of short length on roadways that occupy existing easement rights of way or on intersecting county and township roads where fee simple title is not considered necessary. The Department also uses several supplemental easements and agreements for purposes other than permanent highway rights of way. This Section of the Real Estate Policies and Procedures Manual has been developed as set forth in the Ohio Revised Code 5501.31(Powers and Duties of Director).

3202 Fee Simple Title

Fee simple title will be acquired for permanent rights of way on new location, limited access, and urban area facilities, except for aerial and footer easements on operating railroad rights of way and rights outside of the main right of way for drainage (channel, sewers, etc.). Fee simple title may also be acquired for any other type of project or for specific ownerships as beneficial to the Department.

Fee simple title is further classified by the intended use within the highway facility. The following parcel identifiers describe these classifications:

WL - Fee Simple With Limitation of Access
Use this identifier to acquire fee simple title for highway rights of way where a plan requires full limitation of access to the facility. The WL instrument may be for whole takes on fully limited access highways even though a portion of the taking lies outside the limited access boundary. The right of way plan will show the portion outside the boundary as a WD area if control of access is not needed.

The form presumes full limitation of access. When design requires less than full limitation of access, such as on a controlled access facility, a limiting feature may be inserted immediately following the description, for example, "Except 12 foot wide residential drive left from station 10+50 to station 10+62".

WD - Fee Simple Reservation of Access
Use this identifier to acquire fee simple title where limitation of access is not to be acquired. The WD form states that the grantor retains the right of ingress and egress to and from any residual area.

BS - Bill of Sale
Use this identifier for an agreement to acquire improvements on the land independent of the conveyance of title.

PRW - Property Right Fee Simple
Use this identifier for an agreement to compensate for the impairment of the right of ingress and egress, when such impairment is directly attributable to the proposed highway facility yet there is no physical acquisition of land. Use the “PRW” identifier when the associated highway right of way is owned in fee. In all cases where "PRW" is used, the Remark's Column of the Summary of Additional Right of Way Sheet shall briefly indicate the specific impairment being compensated for. When it is unclear as whether a “PRW” take is necessary contact the District Real Estate Administrator.

E - **Fee Simple Excess Land**
Use this identifier for excess property that at some future date will be considered for either acquisition as an EL or ER parcel, or disposed of by sale or exchange.

The Summary of Additional Right of Way Sheet and Right of Way Detail Plan Sheet shall show any excess land as an "E" parcel until it is disposed of or acquired.

EL - **Acquired Fee Simple Excess Land**
If ODOT acquires the fee simple of any excess land, except an uneconomic remnant, then the former "E" parcel will be re-identified as "EL".

ER - **Fee Simple Uneconomic Remnant**
If ODOT acquires the fee simple of excess land considered to be an uneconomic remnant [i.e., "a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the agency concerned has determined has little or no value or utility to the owner." See Ohio Rev. Code Section 163.59(K)], then the former "E" parcel will be re-identified as "ER."

ES - **Excess Land Sold or "Swapped" [See Ohio Rev. Code Section 5501.34]**
Once the Director has declared certain parcels to be excess land no longer needed for highway purposes, they may be sold (either directly to abutters or at auction, depending on its value), or "swapped" to an owner as part of the consideration for other property being acquired from that owner along the same highway corridor as the excess land.

3203 Easements

Highway easements convey, in perpetuity, the right to construct and maintain a highway facility on the land of the fee holder. The owner retains the underlying fee. The following are the two types of highway easements identifiers.

SH - **Standard Highway Easement**
Use this identifier to acquire rights of way for a highway improvement where fee simple title is not required and limitation of access from adjoining land is not desired.

LA - **Limited Access Easement**
Use this identifier to acquire a permanent easement for highway rights of way where a plan requires full limitation of access to the facility. The form presumes full limitation of access. When design requires less than full limitation of access, such as, on a controlled access facility, a limiting feature may be inserted immediately following the description. For example, "Except 12 foot wide residential drive left from station 10+50 to station 10+62".

When the easement needs from one owner are partially limited access and partially non-limited access, the separate easement needs shall be acquired as separate parcels. The suffix LA is used for the limited access parcel and SH is used for the non-limited access parcel. The description of the LA parcel is put on an LA Easement Description Sheet and the non-limited access parcel is put on an Easement for Highway Purposes Description Sheet and both are combined into one instrument.

Non-highway easements convey rights associated with the highway facility. The owner retains the underlying fee and can continue to use the property, within limits. The following identifiers describe the various types and uses of non-highway easements.

T - Temporary Easement

Use this identifier for a temporary easement for specific purposes, outside permanent rights of way. Because the duration of a temporary easement is essential for appraisal purposes, a temporary easement must always state its duration in months, starting from the date of entry by ODOT or its contractor and ending when the proposed work has been completed and accepted. Temporary easements are most often used to make adjoining terrain, normally maintained by the owner, conform to new construction. Other uses for temporary easements include temporary detours, construction working areas, temporary access roads, and channel work not requiring a channel easement. A temporary easement is not to be used for parking or for storage of materials or equipment. No structures can be erected within a temporary easement without the owner's written agreement.

SL - Slope Easement

Use this identifier to acquire a continuing right for the construction and maintenance of slopes until such time as the owner desires to remove or build on the slope, provided that the proper preservation of a highway will not be impaired by such removal or occupancy of the slopes.

S - Sewer Easement

Use this identifier to acquire the right to construct and maintain a sewer outside regular highway rights of way. If additional land is needed to construct the sewer, the right of way plan must clearly show and delineate this land as a temporary parcel.

CH - Channel Easement

Use this identifier to acquire the right to construct and maintain, a perpetual watercourse within the area described in the easement. The grantor retains the right to use the area for any other purpose provided that this use does not impair the proper functioning of the channel.

This type of easement is used for the construction of an open watercourse channel that falls outside of the regular highway rights of way. It may also be used for a large, open channel that parallels a highway to avoid a riparian right controversy.

FL - Flowage Easement

Use this identifier to acquire the perpetual right to cause water to flow over a described area, such as, temporary impoundment of storm water upstream from a channel restriction.

U - Easement For a Railroad or Public Utility

Use this identifier to acquire an easement in the name of a railroad or public utility owning similar facilities for the readjustment or relocation of its facility when fee simple title is not desired. The Summary of Additional Right of Way Sheet and Right of Way Detail Plan Sheet shall show by note name in which the easement will be acquired when this type of easement is needed. An agreement is required between the Department and the Grantee giving the Department authority to acquire the parcel in the name of the Grantee and stipulating that the Grantee accepts the parcel.

A - **Aerial Easement**
Use this identifier to acquire an aerial easement to construct and maintain an elevated facility. Acquisition of aerial easements is independent of other easement rights that may need to be acquired under the aerial easements. For example, standard highway easements footer easements or sewer easements may need to be acquired under an aerial easement. The area of overlap of easements is to be shown on an overlap table on the right of way plan sheets.

PRE - **Property Right**
Use this identifier for an agreement to compensate for the impairment of the right of ingress and egress, when such impairment is directly attributable to the proposed highway facility yet there is no physical acquisition of land. Use the “PRE” identifier when the associated highway right of way is owned in highway easement. In all cases where "PRE" is used, the Remark's Column of the Summary of Additional Right of Way Sheet shall briefly indicate the specific impairment being compensated for. When it is unclear as whether a “PRE” take is necessary contact the District Real Estate Administrator.

SC - **Scenic Easement**
Use this identifier to acquire the right to preserve the use and development of an area adjacent to the highway in a manner consistent with the nature and intent of the highway beautification program.

3204 Additional Modifiers

"V" and "R" designations are modifiers used to identify either which political authority will be the eventual owner of the appropriated land or which special rights are expressly reserved for the landowner respectively. When "V" and "R" are used in the same parcel the "V" should precede "R". These identifiers are not to be used with any designations identified in 3205 Agreements.

V - **In The Name of Another State Agency, LPA, etc.**
Use this identifier when acquiring property rights in the name of an entity other than the Department, such as another State Agency, political subdivision, etc. The Summary of Additional Right of Way Sheet shall show the name in which the property rights will be acquired. An agreement is required between the Department and the Grantee giving the Department authority to acquire the parcel in the name of the Grantee and stipulating that the Grantee accepts the parcel.

R - **Special Reservation**
Use this identifier where certain rights in the area to be acquired (other than direct access rights) are reserved for the owner. Reservation may include mineral rights (such as coal below a stated elevation), limited rights of access over or under limited access rights of way (such as access under a viaduct), or other reservation which is special in nature. In all cases where "R" is used, the Remarks Column of the Summary of Additional Right of Way Sheet shall indicate briefly the type of reservation, i.e., special access, mineral, etc.

3205 Agreements

Agreements are for specific situations that require special arrangements with property owners outside the area needed for perpetual highway rights of way. The following identifiers describe the various types and uses of several commonly used agreements.

WA - Work Agreement
Use this identifier for an agreement for a work area in which the contractor will do non-essential work for the benefit of the owner, such as, connecting drives and dressing slopes. If the owner elects not to sign the agreement then the work does not have to be done. The work agreement permits the contractor to enter upon the property to perform specific work and terminates when the proposed work is completed. A work agreement does not require a legal description and is not appraised.

SA - Special Agreement and Waiver of Damage
Use this identifier for an agreement in those special situations where standard types of title are not applicable. The purpose of this agreement is to describe an understanding between the Department and a property owner.

3206 Special Deviations

Replacement land for railroad relocation, utility transmission line, substation relocation, etc., shall be acquired in accordance with an agreement between the Director of Transportation and the individual companies concerned, and in the same degree of title held by the company in the land replaced unless otherwise provided for in the agreement.

3207 Forms

The plan preparer should carefully review all of the various types of title and agreements and determine which one best fits each parcel of right of way to be acquired. Examples of the various forms can be found in **Real Estate Policies and Procedures Manual Section 5400** of the.