

**Arizona Department of Transportation
Intermodal Transportation Division**

**Right of Way
Procedures Manual**



**ADMINISTRATION SECTION
Org. 9300**

FHWA Certified: January 01, 2011



Arizona Department of Transportation

Intermodal Transportation Division

Right of Way Group

Transmittal Letter Date: April 01, 2011

TO: Interested Individuals and Each Holder of the Right of Way Group
 Procedures Manual

Attached is the most recent Procedures Manual for the Arizona Department of Transportation, Right of Way Group. As you are viewing the electronic (PDF) version of the manual, hyperlinks have been added allowing you to quickly navigate to the various sections. At the end of each Section and Exhibit you will be given further directions.

Should you have any questions please contact our office directly at (602) 712-7316.


Paula I. Gibson
Chief, Right of Way Group



U.S. Department
of Transportation
**Federal Highway
Administration**

ARIZONA DIVISION

December 30, 2010

4000 North Central Avenue,
Suite 1500
Phoenix, Arizona 85012-3500
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In Reply Refer To:
410
HOP-AZ

Mrs. Sabra Mousavi, Chief ROW Agent
Arizona Department of Transportation
205 South 17th Avenue
Phoenix, Arizona 85009

Dear Mrs. Mousavi:

State's which receive Federal-aid funding from the highway trust fund are required to maintain a manual describing its right-of-way organization, policies, and procedures. The guidelines for this manual are detailed in Title 23 CFR 710.201 (c). Beginning on January 1, 2001 and every five years thereafter, the manual will be certified by the FHWA. The manual shall be updated periodically to reflect changes in the operations and submit the updated material to the FHWA for approval.

The manual was submitted to FHWA for approval in August, 2010. After an extensive review, subsequent corrections have been accomplished. Realizing the manual will have continual updates/revisions and observed technical corrections will be corrected; the FHWA finds the manual to be materially in compliance with federal regulations. Therefore, by this letter, the FHWA is certifying the Arizona Department of Transportation's Right of Way Manual to be in compliance with federal regulations as of January 1, 2011.

Sincerely yours,

for Robert E. Hollis
Division Administrator



Table of Contents

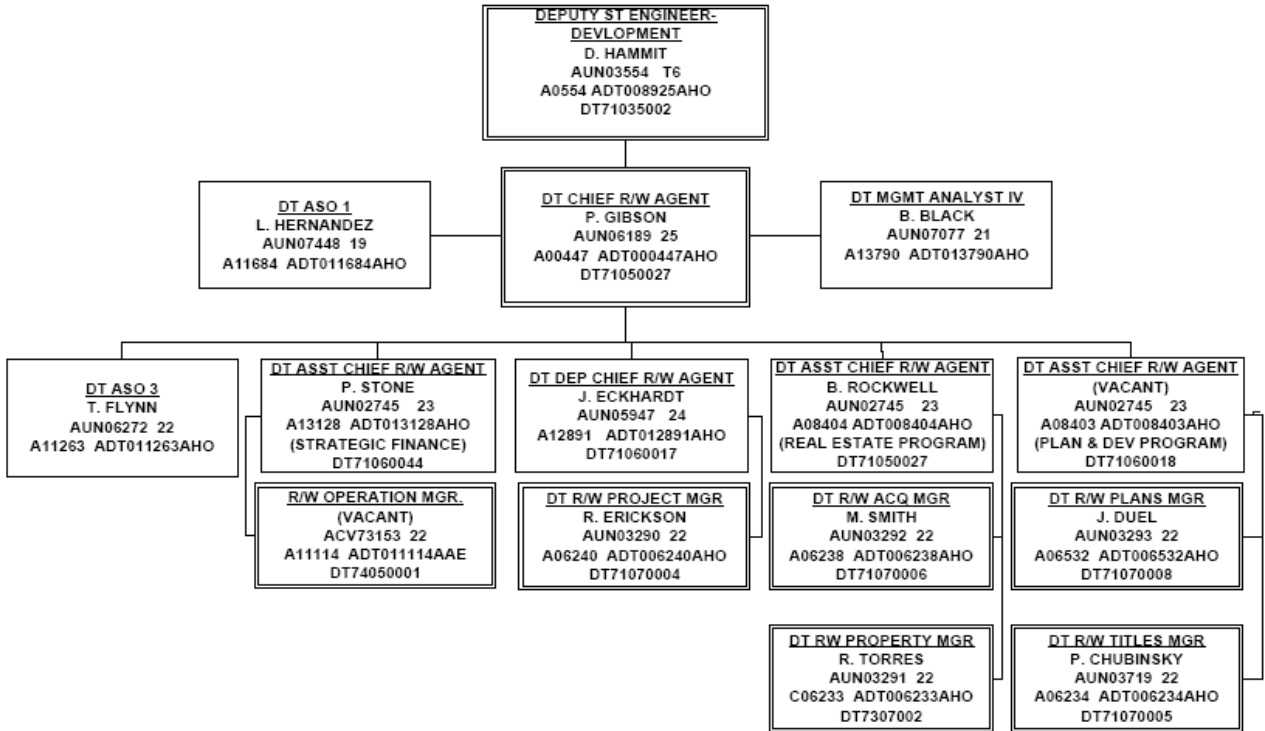
Chapter 1	<i>Functions</i>	5
1.01	Purpose	5
1.02	Primary Functions	5
1.03	Policy	5
1.04	Authority	5
1.05	Operation Practice.....	5
1.06	Right of Way Code of Ethics	6
Chapter 2	<i>Organization and Responsibilities</i>	7
2.01	Purpose	7
2.02	Right of Way Organization	7
2.03	Right of Way Administration Staff.....	7
2.04	Chief Right of Way Agent	7
2.05	Deputy Chief Right of Way Agent.....	8
2.06	Assistant Chief Right of Way Agents.....	8
2.07	Administrative Services Officer III, Condemnation Liaison.....	8
2.08	Administrative Services Officer I.....	9
2.09	Administrative Assistant II	10
2.10	Electronic Data Processing Unit.....	10
Chapter 3	<i>Dress Policy</i>	11
3.01	Dress Policy	11
Chapter 4	<i>Condemnation Organization and Responsibilities</i>	13
4.01	Purpose	13
4.02	Responsibilities	14
Chapter 5	<i>Condemnation General Procedures</i>	14
5.01	Purpose	14
5.02	Definition of Terms	14
5.03	ADOT's Office of Legal Advisor	15
5.04	Determination and Approval to Condemn	15
5.05	Preparation and Filing of Condemnation Actions	15
5.06	Possession of Property	16
Chapter 6	<i>Condemnation Legal Responsibilities</i>	16
6.01	Purpose	16
6.02	Condemnation Responsibilities	17
6.03	Condemnation Function Aids Chief R/W Agent.....	17
6.04	Record Receipt of Parcel File.....	17
6.05	Acquisition Package	17
6.06	Preparation of the Legal File	17
6.07	Preparation of Property Description and Plat	18
6.08	Recommendation and Resolution Establishing the Highway	18
6.09	Preparation of Vicinity Map	18
6.10	List of Parties Defendant	18
6.11	Assembling the Legal File	19
6.12	Submittal of Legal File.....	20
6.13	Parcel File Submitted to R/W Records Center	20

6.14	Instituting the Condemnation Action.....	20
6.15	Post Trial Functions of Office of Legal Advisor	21
6.16	Legal Description of the Property Taken	22
6.17	Description of Access Rights.....	24
6.18	Special Assignments	25
Chapter 7	Condemnation Procedures.....	25
7.01	Purpose	25
7.02	Responsibilities	25
7.03	Preparation for Trial.....	26
7.04	Field Investigations.....	26
7.05	Other Condemnation Duties	27
7.06	Use of Other Work Order Forms	27
Chapter 8	Recording of Condemnation Data	27
8.01	Purpose	27
8.02	Receipt of Acquisition Package.....	27
8.03	Transaction Report.....	27
8.04	Procedure for Routing and Recording Acquisition File.....	27
8.05	Posting of Bonds	28
8.06	Payment of Judgments.....	29
8.07	Settlements Without Trial	29
Chapter 9	Exhibits	31

To return to the Main Table of Contents ~ [Click Here](#)

Table of Organization (9300)

**ARIZONA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY GROUP
ADMINISTRATION SECTION
ORG 9300**



REVISED 12/2011

To Return to the Main Table of Contents ~ [Click Here](#)

To Return to this Section Table of Contents ~ [Click Here](#)

Chapter 1 Functions

1.01 Purpose

The purpose of this chapter is to describe the function, responsibilities and the general operating procedures of the Right of Way Group of the Intermodal Transportation Division of the Arizona Department of Transportation.

1.02 Primary Functions

The purpose of the Right of Way Group is to function as the acquiring agency of the Arizona Department of Transportation in acquiring all real property and real property rights required for the construction and maintenance of all federal and state highways, maintenance facilities, material sites, and other highway-related purposes; and to act as the administrative agency of the Arizona Department of Transportation in all matters relating to the management and disposal of Department owned excess real property and the administration and management of the Relocation Assistance Program.

1.03 Policy

To support the Intermodal Transportation Division through the timely acquisition and clearance of private and public lands needed for the construction or improvement of the State Highway System in accordance with applicable laws, regulations and rules. It is the policy of the Right of Way Group to acquire, all properties and/or property rights required for state and federal highway purposes and to administer, in the same manner, the Relocation Assistance Program as authorized by federal and state laws and regulations.

1.04 Authority

State and Federal Regulations: The acquisition, management, and disposal of highway-related real property and/or real property rights, and the relocation of persons and personal property caused by such acquisition, are authorized by and accomplished in compliance with applicable provisions of the Arizona Revised Statutes and the United States Code. Regulations issued under proper authority may be amended from time to time by the Arizona State Legislature, the United States Congress, and the Arizona Department of Transportation.

1.05 Operation Practice

The operational practice of the Right of Way Group in compliance with Title VI Civil Rights Act of 1964, when acting as an agent for the Arizona Department of Transportation, shall be to accomplish all right of way transactions with members of the public in a manner that is in the best interest of the public and the Arizona Department of Transportation, without regard to the race, color, sex, religion, age or national origin of the individual and his community; and to adhere to the high standard of ethics and the principles of good business practices adhered to by the Arizona Department of Transportation and its management. The Right of Way Group shall perform all functions in right of way related matters utilizing Title VI procedures as more specifically described in 23 CFR 200.

1.06 Right of Way Code of Ethics

a. Conduct and Requirements in General:

1. Employees shall conduct themselves with the highest level of integrity and impartiality essential to ensure the proper performance of State business so that the public's confidence in the Arizona Department of Transportation and State government is not compromised.
2. Employees shall conduct themselves in such a manner that the work of the State is effectively accomplished; they shall be courteous, considerate and prompt in dealing with and serving the public and shall conduct themselves in a manner that will not bring discredit or embarrassment to the State.
3. Employees shall observe the applicable laws and regulations governing participation in political activities and conflict of interest, and shall avoid any discrimination because of race, color, religion, national origin, age handicap, sex or sexual preference and shall economically utilize, protect and conserve property of the State of Arizona entrusted to them, and conduct all their official activities in a manner which is above reproach and free from any indiscretions, or acceptance of gratuities or favors which would cast doubt or suspicion upon themselves or their agency.

b. Specific Conduct and Responsibilities of Right of Way Employees:

1. Official position shall not be used by State employees for personal gain. Public influence and confidential or "inside" information may never be turned to personal advantage.
2. Conflict of interest laws must be scrupulously observed. Employees must disclose their interest, if any, in the official records of the employing agency and shall not participate in or vote for any contract, sale, purchase or service in which they have an interest as defined in the Arizona Revised Statutes Code of Conduct.
3. The employee shall not do any work in a private capacity, which may be construed by the public to be an official act.
4. The employee shall not accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment or loan which is, or may appear to be, designed to influence official conduct in any manner particularly from a person who is seeking to obtain contractual or other business or financial arrangements with the employee agency, or who has interests that might be substantially affected by the performance or non-performance of the employee's duty. This provision does not prohibit acceptance by an employee of food and refreshments of insignificant value, on infrequent occasions, in the ordinary course of a meeting, conference or other occasion where the employee is properly in attendance; nor does it prohibit the solicitation or acceptance by an employee of loans from banks or other financial institutions on customary terms to finance proper and usual activities of the employee; nor the acceptance of

unsolicited promotional materials such as pens, pencils, calendars and other items of nominal value.

5. Employees shall not directly or indirectly use or allow the use of State property of any kind, including property leased to the State, for other than officially approved activities. Employees have a positive duty to protect and conserve state property entrusted or issued to them.
6. Employees must never permit themselves to be placed under any kind of personal obligation, which could cause any person to expect official favors.
7. Employees official acts must reflect impartiality. Their decisions and actions must be determined by impersonal considerations, free from any taint of favoritism, prejudice, personal ambition or partisan demands.
8. Employees shall not engage in any outside employment or activity which is not compatible with the full and proper discharge of the duties and responsibilities of their state employment, or which tends to impair their capacity to perform their state duties and responsibilities in an acceptable manner.
9. Employees shall acquaint themselves with the statutes relating to their conduct as an employee, including the code of conduct in the Arizona Revised Statutes and the Federal Hatch Act.

Chapter 2 Organization and Responsibilities

2.01 Purpose

The purpose of this chapter is to present the broad responsibilities and authority of the principal management personnel within the Right of Way Group.

2.02 Right of Way Organization

The Right of Way Group is one of the operational segments of the Intermodal Transportation Division, Development Group of the Arizona Department of Transportation. Presently there are seven separate functional Sections: Operations, Plans, Urban and Statewide Acquisition, Project Management, Property Management and Titles. Since we are not a static Organization these Section names may change but the functions will continue to be performed.

2.03 Right of Way Administration Staff

The Right of Way Administration Table of Organization ~ [Click Here](#).

2.04 Chief Right of Way Agent

The Chief Right of Way Agent is the executive administrator of the Right of Way Group. All functions of the Group are under his/her administrative jurisdiction. He/she has direct supervision over the Deputy Chief Right of Way Agent, and the Assistant Chief Right of Way Agents.

- a. **Line of Authority:** The Chief Right of Way Agent functions under the administrative direction of the Deputy State Engineer of the Development Group. The complete line of authority from the Deputy State Engineer to the Director of the Arizona Department of Transportation is shown on the appropriate organization chart located at the end of the chapter.
- b. **Administrative Direction of the Section:** The Chief Right of Way Agent serving as executive administrator of the Right of Way Group is responsible for the administrative direction of the entire group.
- c. **Statewide Supervision:** The Chief Right of Way Agent exercises statewide supervision over all Right of Way activities and affairs and is responsible for recommending management approval for all expenditures, policies, procedures, methods and regulations for the Right of Way Group. In Arizona, the central Right of Way Office is located in Phoenix.

2.05 Deputy Chief Right of Way Agent

Under the direction of the Chief Right of Way Agent, the Deputy Chief Right of Way Agent is responsible for, but not necessarily limited to: direct supervision over the Condemnation Liaison and providing executive level staff assistance and liaison functions for the entire Right of Way Group. The Deputy Chief Right of Way Agent may act on behalf of the Chief Right of Way Agent in directing all right of way activities; assist in developing training programs; maintain Section manuals and interim procedures; monitor internal committees; provide guidance and assistance to staff and conduct/accomplish the more complex right of way issues as necessary. In the absence of the Chief, the Deputy has full authority to carry out and direct all Right of Way activities including the signing of deeds and administrative settlements.

2.06 Assistant Chief Right of Way Agents

Under the direction of the Chief Right of Way Agent, the Assistant Chief Right of Way Agents are responsible for, but not necessarily limited to providing executive level staff assistance and liaison functions for the Right of Way Group. The three Assistant Chief Right of Way Agents are the Real Estate Program Manager who oversees the operations of the Property Management Section, Statewide Acquisition Section, and Urban Acquisition Section; the Planning and Development Program Manager who oversees the operations for the Titles Section, Plans Section, and Project Management Section; and the Strategic Finance Manager who oversees the financial Right of Way program in conjunction with the Five Year Construction program, and the Manager of the R/W Operations Section. They provide guidance and assistance to staff and conduct/accomplish the most complex right of way issues as necessary. The Assistant Chief Right of Way Agents reports to the Chief Right of Way Agent.

2.07 Administrative Services Officer III, Condemnation Liaison

This position reports directly to the Deputy Chief Right of Way Agent in the capacity of the Right of Way Liaison to the Attorney General's Office. Responsible for interacting with assistant attorney generals on any requests for right of way support. Act as liaison to the Attorney General's Office and provide R/W support thorough the condemnation/litigation process including attending settlement hearings and condemnation trials.

Responsible for performing complex review of R/W files including analysis of the reports, legal descriptions, engineering and right of way plans and reports, critiquing appraisal reports and reviews, confirming sales used in the appraisal process, gathering real estate information, interviewing agents and property owners/sellers, and gathering information requested by legal staff. Serve as the Right of Way Liaison to the Attorney Generals Office. Attend Litigative Support meetings as a voting member. Responsible for gathering information to support litigation activities being handled for the Department. Attend settlement conferences and condemnation trials. Participate in R/W Project Management meetings and act as a resource on large projects requiring extensive new right of way takings. Involvement with management levels of federal, state and local governments, district engineers, and State assistant attorney generals. Direct contact with Statewide and Urban project managers, designers, and technical staff. Initiate meetings and develop agendas to facilitate establishing project goals to assess possible litigation risks. Provide reports to executive level management. Develop criteria for file reviews. Research, organize and track all R/W litigation issues. Establish and monitor electronic tracking and reporting databases. Recommend database updates and process improvement strategies.

2.08 Administrative Services Officer I

This position reports to the Deputy Chief Right of Way Agent. Under general direction of the Group Manager, this position is the Administrative Manager for the Group.

- a. Purpose: Research, interpret and apply administrative rules, Arizona State Statutes, Agency policies, procedures and principles. Formulate budget proposals; project allocations, develop fiscal activity reports. Assess on-going fiscal activities to maintain accounting and fiscal operations. Execute contract administration for various contracts, i.e. janitorial, landscaping, waste managements, etc. Achieve sound accounting functions by supervising payroll, accounts payable activities; approving expenditures of funds; analyzing and interpreting expenditure data.
- b. Group Human Resource Manager: Maintain highest standards of confidentiality and integrity in all human resource activities. Set direction for recruitment, certification, eligibility, and verification, development of staffing disciplinary and grievance procedures and implementation of employee evaluations for Group. Conduct Administrative personnel investigations. First line supervisor for Group support staff: Establish direction, set goals, institute priorities, disseminate work activities; review work accomplishments; evaluate performance; initiate and complete disciplinary actions. Organize, implement and oversee special projects that may include but are not limited to Home Land Security, Strategic Planning; Land Building & Improvement; Capital Improvement; Fixed Assets; Group office facilities maintenance work activities.
- c. Liaison: Group contact for multiple individuals/groups/departments to include but not limited to Agency Director; State Engineer's Office; Accounts Payable; Procurement Group; Information Systems; Employee Services, Human Resources; Risk Management, Home Land Security; Office of Inspector General and outside entities, including towns, cities, counties, tribes and other State and Federal agencies. Liaison activities: Researching and providing a wide variety of information, composing and/or

completing reports, maintaining confidential human resource database, spreadsheets, etc.

- d. Delegation of Authority by Group Manager to include but not limited to: customer response, signature authority for Human Resource documents and procurement approvals.

2.09 Administrative Assistant II

This position reports to the Deputy Chief R/W Agent, under general direction of the Group Manager. This position is the Administrative Assistant for the Administration Section.

- a. Purpose: Provide administrative support to Right of Way Administration. Is the point of contact for R/W Administration and will provide assistance as needed to the general public, contractors, property owners and other stakeholders through answering questions about processes, policy and procedures, and in directing inquiries to other Sections of Right of Way or ADOT. Prepares correspondence, conducts research as assigned and provides general administrative support to all R/W management team members.
- b. Will collect, enter and be responsible for BTS (time and attendance) entry for Administration Section and Operations Section and act as a back-up for other R/W Sections. Verifies codes, leave balances and signatures; enters time and attendance into HRIS payroll system; submits Bi-Weekly Time Sheets with Batch Control Report to Employee Services.
- c. Receives, tracks and distributes all mail for the R/W Group, Fed-Ex, UPS and other deliveries. Responsible for ordering and maintaining supplies for Administration. Responsible for timely maintenance issues of Administration vehicle, including the cleanliness and gas levels. Ensures sufficient paper quantity on all Administrative Section equipment is maintained. Maintains and post master R/W schedules for all Right of Way conference rooms; obtains and files all consultant reports on a monthly basis; maintains copies of current emergency contact forms for entire R/W Group. Actively scans right of way parcel files during close out phase.

2.10 Electronic Data Processing Unit

- a. Purpose: The purpose of the EDP Unit is to provide the R/W Group with computer support for applications, programming, hardware and software. This insures that the R/W Group has a minimal amount of computer "downtime", and has on-site personnel with R/W experience who can tailor EDP needs and applications to R/W goals.
- b. Primary Functions: The primary function of the EDP Unit is to support personal computer applications (to include hardware, software, programming, maintenance, and acquisition) for all R/W Sections, and to act as liaison between R/W and Technical Information Resources.

- c. Responsibilities: The Electronic Data Processing Unit has the responsibility of acquiring and maintaining all EDP equipment and applications for the R/W Section. This includes hardware, software, programming, applications, and systems administration of all assigned RACF ID's and Internet access requests. (Exhibits 9.01, 9.02 and 9.03).
- d. Procedures: The purchase of EDP equipment will be coordinated with management approval up to \$5,000.
 - 1. All existing programs in use by R/W must be installed from original software, which is kept in a secure, locked environment in the EDP Services Support office.
 - 2. The EDP Unit maintains a set of "Computer Security Guidelines" which is shown to all new employees who then sign and date a RACF ID Form that they have read same.
 - 3. The EDP Unit will troubleshoot any problems for Applications or PC's in R/W, and perform daily, monthly, and quarterly backups on R/W Operations' PC's as needed.

Chapter 3 Dress Policy

3.01 Dress Policy

The Right of Way Group believes that the success of a business is determined, in part, by establishing and maintaining a proper business atmosphere. This is determined by the image employees' project as well as the manner in which they conduct business. In an effort to promote professionalism and quality customer service, the Right of Way Group has established guidelines for acceptable dress and appearance of staff employees and consultants that work in our offices. After reviewing the Dress Policy, the attached memo is to be signed by each employee and in-house consultant (Exhibit 9.04). This policy is generally accepted by the business community as appropriate, and employees shall adhere to these guidelines at all times during business hours. Attention to cleanliness, grooming and attire is expected of all employees as a demonstration of respect and consideration for other employees and for the customers we serve. Good judgment should be used when applying make-up and selecting jewelry or other accessories. Temporary exceptions to the following dress standards, may be allowed on days when employees are required to perform tasks which dictate a more casual standard (i.e., moving equipment, packing or moving file boxes, survey or field trips where you will not be meeting with the public, etc.) or on days declared by Administration to be "dress down" or casual dress days. Fridays are routinely considered casual dress days.

- a. The following guidelines shall be used by all Supervisors in determining acceptable grooming and dress standards for their employees. Reasonable discretion shall be used in interpreting these guidelines.
 - 1. Acceptable:

- (a) Employees shall maintain good personal hygiene. Hair should be neat and clean; beards and mustaches should be trimmed and neatly groomed.
- (b) Shirts or blouses should have sleeves and must cover the entire torso.
- (c) Denim jeans, sweat shirts and T-shirts may be worn only on casual dress Fridays, on days when employees need to perform tasks which dictate a more casual dress standard (as approved by the supervisor), or on days declared by Administration to be casual dress days.
- (d) Women's sleeveless garments that are professional in appearance are acceptable, or when worn with a jacket or other top.
- (e) Belts should be worn with all slacks, dress pants and other clothing designed to be worn with a belt. Tasteful suspenders are acceptable.
- (f) Skirts or "skorts" made of acceptable fabric (no leather or spandex) may be worn as long as they are an acceptable length. An acceptable length is defined by this Administration to be that the bottom of the garment shall be no more than 4 inches above the top of the kneecap when in a standing position. Nylons or tights are recommended.
- (g) Colognes or perfumes shall be permitted if used in moderation.
- (h) All clothing should fit properly and be neat clean and in good repair. Employees shall wear shoes at all times. Leather shoes should be shined and in good repair. Some types of sport shoes and dress sandals may be acceptable if clean and in good repair.

2. Not Acceptable:

- (a) At no time, will an employee wear a garment that has pictures, logos or messages that are offensive or otherwise considered unprofessional.
- (b) Plunging necklines, halter-tops, backless dresses or blouses, crop top or tank tops are not permitted.
- (c) Form fitting or sheer garments are not acceptable at any time.
- (d) Sweat-suits, jogging suits, spandex pants, shorts or other exercise garments are not appropriate office attire at any time.
- (e) Leggings or tights worn with knit tops, blouses or sweaters are not appropriate.
- (f) Shorts are not acceptable attire.
- (g) Hiking boots, flip-flops, thongs or other casual sandals are not permitted.

- (h) Slovenly personal grooming habits are not acceptable.
 - (i) Garish hairstyles or colors are not acceptable.
 - (j) Denim jeans of any color are not permitted, except on casual days.
- b. Examples of appropriate professional attire for both genders shall include but are not limited to:
- Suits, dress pants or slacks, stirrup pants, pant suits, long or short sleeve dress shirts with or without a neck tie, polo shirts with a collar, blouses, skirts or split skirts (skorts/culottes), dresses, socks or stockings, belts or suspenders, appropriate sleeveless garments, dress shoes, pumps, slings, professional looking boots, sandals or sport shoes.
- c. Examples of inappropriate attire for both genders shall include but not limited to:
- Sport pants, denim jeans (any color), sweat pants, leggings, tights, shorts, tank tops, sleeveless shirts, undershirts, or T-shirts, any shirt or top with inappropriate markings, sheer, tight or revealing garments, halter tops, backless garments, tops with plunging necklines, jogging suits, casual shoes or sandals, or extreme use of perfume or cologne.
- d. Supervisors shall be responsible for ensuring that proper standards of dress and appearance are maintained in their work units by all employees. Discretion and common sense shall be used in enforcing the following guidelines and requirements. Supervisors shall follow the disciplinary actions identified below when violations to this policy have been identified:
1. First Offense:

For a first-offense violation, the supervisor shall counsel the employee on proper standards of dress and give the employee a verbal warning.
 2. Second and Subsequent Offenses:

For a second-offense or subsequent violation, the supervisor shall employ the ADOT Progressive Discipline Procedures (PER-5.05).

Chapter 4 Condemnation Organization and Responsibilities

The condemnation process starts as a result of negotiation breakdown between a property owner and ADOT. The issue may be of value or a title problem. The right of eminent domain is an inherent right of sovereignty to appropriate private property for public good. The laws of eminent domain are defined in ARS 12-111 and 28-7091 through 28-7103. In this condemnation process, the value and/or title issues are resolved by the Arizona Attorney Generals Office and the courts.

4.01 Purpose

The purpose of this chapter is to present the organization and responsibilities of the Condemnation Function, which a portion of duties are performed under R/W Administration and a portion are performed under the R/W Titles Section.

4.02 Responsibilities

The Condemnation responsibilities are, but not necessarily limited to:

- a. Assisting the Attorney Generals Office, in the preparation and prosecution of condemnation actions.
- b. Maintaining a calendar of current condemnation actions, including dates of scheduled witnesses to insure their appearance.
- c. Aid in procuring and preparing documentary and graphic exhibits for use by the trial attorney.
- d. Reporting to R/W Administration on matters related to condemnation.
- e. Providing assistance to other R/W Sections on matters pertaining to condemnation.
- f. Providing in-service training for the staff on Condemnation Functions.
- g. Screening all correspondence to the Office of Legal Advisor from the R/W Titles Section.
- h. Disseminating all correspondence or verbal directions from Legal Advisor to the proper Section.

Chapter 5 Condemnation General Procedures

5.01 Purpose

The purpose of this chapter is to present those procedures that generally apply to the operation of the Condemnation Function. It should be understood, however, that at certain times deviations from the procedures as outlined may be necessary. When deviations are necessary, the Deputy Chief Right of Way Agent, or the designee, shall outline the course of action that will best fit the circumstances.

5.02 Definition of Terms

- a. Eminent Domain: Eminent domain is the power of the state to take property for public use without the owner's consent upon payment of just compensation. When negotiations with property owners have failed, or title defects or other matters make a

negotiated settlement impossible, the right of the State of Arizona to institute eminent domain or condemnation proceedings must be invoked.

- b. Chief Counsel: The Chief Counsel is an Assistant Attorney General who has been assigned to ADOT by the State Attorney General, at the request of the Director, ADOT, to serve as Chief Counsel in all ADOT legal matters.
- c. Legal Advisor: The State Attorney General, in accordance with Section 28-109 of the Arizona Revised Statutes, is the state's Legal Advisor in all highway matters.
- d. Fee Attorneys: Fee attorneys are hired under contract by the Chief Counsel when the staff attorneys of the Office of Legal Advisor cannot process all the cases because of heavy court schedules, or when special expertise is required for a particular case, in which the use of a fee attorney is in the best interest of the state.
- e. R/W Matters: The Condemnation Unit supports the Chief Counsel and their staff, but it is a Unit within R/W Titles Section, reporting to the R/W Titles Section Manager.
- f. Organization Chart: A functional organization chart depicting the relationship of the Chief Counsel and the Office of Legal Advisor with the Intermodal Transportation Division is shown in Volume 1 of ADOTM-1.

5.03 ADOT's Office of Legal Advisor

The Chief Counsel is responsible for the direction and operation of the Office of Legal Advisor, under jurisdiction of the ADOT Director. A staff of Assistant Attorneys General is assigned from the State Attorney General's office to assist the Chief Counsel in administration of all legal matters of the ADOT. All secretarial and clerical functions are performed by legal secretaries, stenographers, and clerks who are employees of ADOT.

5.04 Determination and Approval to Condemn

The determination to institute condemnation proceedings shall be made by the Acquisition Manager and the Condemnation Liaison, with the concurrence of the Chief Right of Way Agent. All pertinent data is prepared and submitted to the R/W Operations Section on the Transaction and or Directors Report. It is the responsibility of the Condemnation Unit to initiate this report.

5.05 Preparation and Filing of Condemnation Actions

All action for condemnation shall be brought to the Superior Court of the county in which the property is located. The state may, at the time of filing the complaint, or at any time thereafter, make application to the court for an order permitting immediate possession and use of the property sought to be condemned.

- a. It shall be the responsibility within the Condemnation Function in R/W Titles to assemble all the data required by the Office of Legal Advisor for preparation of the complaint. This responsibility shall include, but not be limited to, a thorough search of all title reports and records pertaining to the property sought to be condemned.

1. The Office of Legal Advisor shall be furnished the names of all owners and claimants of the property, if known, or a statement that they are not known, and an affidavit as to how the search was conducted.
 2. Since the land sought to be condemned is for specific right of way, the location and general route and a map thereof shall be furnished.
 3. A description of each piece of land sought to be taken will also be furnished, together with information showing whether the land includes the whole or only a part of an entire parcel or tract. ADOT's Office of Legal Advisor shall prepare the complaint.
- b. After the complaint has been prepared, as part of a condemnation function it shall be filed in the Superior Court for the county in which the property is located.

5.06 Possession of Property

- a. Upon filing the application, a time for hearing shall be fixed and notice thereof served personally upon the parties in interest within the state by publication, or by registered mail if out of the state, in such a manner as the court directs. Servicing of this notice or verification of the servicing thereof is a condemnation function.
- b. On the date of the hearing, if it appears that the use for which the property sought to be condemned is a necessary use, the court will receive evidence as to the probable damages to each person having interest in each parcel of land sought and, upon the deposit of security as directed by the court, the state shall be let into the possession and full use of the parcels of land as described in the order.
- c. Assurances shall be made that the appraiser and other witnesses, exhibits, photographs, maps, or other evidence required by the trial attorney are available at the time of the hearing. It is a condemnation responsibility to insure that the security deposit is posted as directed by the court.
- d. The R/W Property Management, R/W Statewide and Urban R/W Acquisition, and R/W Project Management Sections shall be informed of the scheduled dates of all hearings; the date of possession of improved properties, and assistance is given to R/W Property Management Section in the taking of physical possession of the property involved.

Chapter 6 Condemnation Legal Responsibilities

6.01 Purpose

The purpose of this chapter is to describe the Condemnation Legal responsibilities and procedures. When, because of unique situations, deviations from the ordinary function must occur, the Condemnation Team Leader shall choose the course of action.

6.02 Condemnation Responsibilities

It is a condemnation responsibility to furnish all necessary information to the Office of Legal Advisor of ADOT required in the preparation of the various legal documents of a condemnation action. When it is determined that condemnation is necessary, with the approval of the Chief R/W Agent, permission is requested to condemn from the Deputy State Engineer, Highway Development Group. All necessary documents are prepared, the R/W parcel file is studied for information, and a legal file created. Inquiries are made as to when the file is to be ready for the ADOT Office of Legal Advisor and condemnation procedures and plats are prepared. After the pleadings are prepared, the condemnation action is filed in the Superior Court of the appropriate jurisdiction.

6.03 Condemnation Function Aids Chief R/W Agent

Data is gathered for presentation to assist the Chief Right of Way Agent in determining when condemnation proceedings may become necessary. A condemnation action may be necessitated due to an impasse in R/W Acquisition Section negotiations, title defects, or other causes.

6.04 Record Receipt of Parcel File

When the parcel file is received in Titles, the date of receipt will be entered in the project parcel inventory and in the computer data bank.

6.05 Acquisition Package

The acquisition package will be disassembled and the original copy of each document contained therein will be inserted into the R/W parcel file. A complete copy of the acquisition file is assembled by the Condemnation Unit for use of the Office of the Legal Advisor of the ADOT. The empty acquisition file folder is then returned to R/W Acquisition Section for re-use.

6.06 Preparation of the Legal File

- a. The title report for the parcel to be condemned will be thoroughly examined to determine if the information regarding ownership is accurate and complete when compared to the information developed by the Acquisition Agent, as shown in the parcel file, and that the title report is less than six months old.
- b. When the title report is six months old or older, or when it differs greatly with other ownership information contained in the parcel file, a request is prepared for an updated title report. R/W Titles Personal will prepare an updated title report. One copy of the

letter-gram will be retained in the parcel file. One copy of the current report or, when available, the updated title report, will be placed in the legal file.

- c. When it appears that the property is held in trust, all documents required by ARS 37-801 are prepared and the trustee is named as the defendant, as shown in 13.10(f), (g) and (h) herein.

6.07 Preparation of Property Description and Plat

- a. A condemnation property description will be prepared for the required parcel, which will include the following information:

1. Project
2. Highway
3. Section
4. Parcel
5. Date of preparation
6. Title of the case
7. Preamble(s) identifying type of interest
8. General location of property
9. Specific description of property to be taken
10. Existing rights of way
11. Any access rights being taken, limited, or defined
12. Area of property to be taken
13. Any other rights required, i.e., construction easements, right to temporarily enter the remainder in order to remove an improvement
14. Conditions relative to reversion of certain rights

- b. A plat will be prepared which will set forth the property being sought. The plat will be plainly marked as "Exhibit B" of the condemnation action, and initialed by the person preparing said documents. Copies of the property description and the plat will be made and placed in the legal file.

6.08 Recommendation and Resolution Establishing the Highway

One certified copy of such recommendation and resolution will be obtained from the ADOT Director and will be placed in the legal file.

6.09 Preparation of Vicinity Map

When the recommendation and resolution does not contain a legal description of the project, the Condemnation Unit will prepare sufficient copies of the project vicinity map for inclusion in the legal pleadings and for adequately processing the condemnation action. The vicinity map will be marked as "Exhibit C" of the action and all copies will be placed in the legal file.

6.10 List of Parties Defendant

The current or updated title report, the Acquisition Agent's contact report, and all pertinent documents and information in the acquisition package will be examined. On the basis of facts

gained from the examination, a "Party Defendants List", (Exhibit 9.05) and an Exhibit "D", listing the following information will be prepared:

- a. Project number.
- b. Highway.
- c. Section.
- d. Parcel number.
- e. County.
- f. Name of each defendant.
- g. Address of each defendant.
- h. Type of interest of each defendant.
- i. Pertinent comments relative to the particular action.
- j. In the event the address of any party defendant or defendants is unknown, submit all information showing details of an exhaustive and thorough search made to determine whereabouts of each unknown defendant. The said information is to be used as the basis of an affidavit to be filed with the court at the time the action is instituted.

The original copy of the list will be placed in the parent parcel file and the duplicate copy will be placed in the legal file.

6.11 Assembling the Legal File

- a. At this point, a "Condemnation Check Sheet", (Exhibit 9.06) will be attached to the outer front side of the legal file folder. All documents prepared for the legal file as outlined in the foregoing sub-paragraphs will be reviewed and placed in the legal file and checked off on the Condemnation Check Sheet. The assembled legal file must contain the following:
 1. One certified copy of the recommendation and resolution establishing the highway
 2. Sufficient copies of the condemnation legal description of the required property
 3. Sufficient copies of the plat showing the required property
 4. One copy of each appraisal prepared by staff or fee consultant
 5. One copy of current title report
 6. Sufficient copies of the vicinity map, when required
 7. Parties Defendant
 8. Exhibit "D"
 9. One copy of the acquisition contact report and

10. One copy of the "Condemnation Transmittal Memo",
- b. Other information, which shall be entered on the condemnation check sheet, is as follows:
1. Parcel number
 2. Owner
 3. Highway
 4. Section
 5. Project number
 6. Date of approval to condemn and
 7. Any remarks pertinent thereto

6.12 Submittal of Legal File

When the legal file is assembled with all the necessary information, it is transmitted to the Attorney Generals Office, Transportation Division. A letter is transmitted with the file giving the following information and a brief explanation why the parcel is being condemned.

Date:	Section:	Date Received:
Project:	Parcel No.:	Date to A.G.
Highway:	Owner:	Priority:

6.13 Parcel File Submitted to R/W Records Center

At this point, the "Condemnation Record", (Exhibit 9.08) in the parcel file will be appropriately updated to reflect the current status of the condemnation parcel. The information is also entered in the database on the computer.

6.14 Instituting the Condemnation Action

- a. When the Office of Legal Advisor has prepared and inserted into a case file all the necessary legal pleadings required in the condemnation action, the R/W Titles Section will be advised. The case file will be obtained from the Office of Legal Advisor and each document will be examined to determine the following:
1. That the file contains the proper documents necessary to institute the action.
 2. That the number of copies of each required document is sufficient for the particular condemnation action.
- b. After the case file has been examined, a discussion will be made with the state's Trial Attorney to whom the action has been assigned to coordinate a time schedule for instituting and processing the case.
- c. The original copy of the complaint, and any pertinent related pleadings, will be filed with the Clerk of the Superior Court in the county in which the required property is located. The Clerk will be requested to issue a summons for the action.

- d. The condemnation action will be discussed with the judge having legal jurisdiction over the matter and a date for the Order to Show Cause hearing will be set. The signature of the judge will be obtained on the original copy of the Order to Show Cause.
- e. The established date of the hearing, name of the judge, and type of service will be entered in the appropriate places on each additional copy of the Order to Show Cause. The date, indication of court seal, and the name of the Deputy Clerk will be appropriately entered on the additional copies of the summons.
- f. The original copy of the Order to Show Cause will be delivered to the Superior Court Clerk where the case was originally filed.
- g. The process, consisting of one copy of the complaint, one conformed copy of the Order to Show Cause, and one conformed copy of the summons for each defendant to be served, will be delivered to the civil division of the sheriff's office in the county in which the named defendant(s) reside, with instructions for service and the return of service to the sheriff's office. When service is required in more than one county, the above procedure shall apply to each county.
- h. When publication of legal notice of the action is required, the following items will be furnished to the appropriate newspaper:
 - 1. One copy of the Order to Show Cause.
 - 2. One copy of the summons.
 - 3. Adequate instructions and dates for publication of the legal notice within the time required.
- i. The index will be updated to include the date of filing of the complaint and the date of order to show cause hearing.
- j. At this point, the case file will be returned to the State's Attorney, to whom the case is assigned, and who will be advised of any other information concerning the file.

6.15 Post Trial Functions of Office of Legal Advisor

- a. When the condemnation case has been tried in court, or settled by stipulation, and a judgment has been rendered, the Office of Legal Advisor will submit, to the R/W Titles Section a copy of the judgment.
 - 1. After the judgment has been examined and its receipt properly recorded in the Condemnation files, the judgment and memorandum and the parcel file will be submitted to the Condemnation Unit.
 - 2. The judgment will be revised to ascertain the following:
 - (a) That the interests of all defendants named in the action have been adjudicated.
 - (b) That the legal description of the judgment contains the latest, and proper, information when compared to the legal description in the parcel file.

3. When the information of the judgment is correct, it will be indicated on the memorandum accompanying the judgment. The judgment and memorandum and the parcel files will then be sent to R/W Operations Section for payment. When payment has been made, R/W Operations Section will notify the R/W Titles Section. At that time, the appropriate State's Attorney will be notified that payment has been transmitted.
 4. When minor discrepancies are found in the legal description of the judgment, such discrepancies will be noted on the accompanying memorandum. The documents, with the parcel files, will be submitted for further processing and correction to the Office of Legal Advisor. After correction, the document will be reviewed and, if found to be correct, will be processed in accordance with sub-paragraph (3), above.
 5. When major discrepancies are found in the legal description of the judgment, the R/W Titles Section will be advised. The R/W Titles Section will then discuss the matter with the trial attorney to whom the case is assigned and will submit the judgment and accompanying memorandum to the attorney for correction. After correction, the judgment will be reviewed by the Legal Branch and, when found to be correct, will be processed in accordance with sub-paragraph (3), above.
- b. When the judgment of a condemnation action has been satisfied by the state, the court will issue a final order of condemnation. The Office of Legal Advisor will submit by memorandum a copy of such order to the R/W Titles Section.

The Final Order of Condemnation will be reviewed to ascertain the following:

1. That the terms of the order coincide with the terms of the judgment.
2. That the legal description of the order is identical to the legal description of the judgment.
3. The order is transmitted to R/W Operations Section for recordation in the proper jurisdictions(s).

6.16 Legal Description of the Property Taken

- a. The description of the complaint prepared will contain:
1. TRACS Number/Federal ID Number (If applicable)
 2. Name of the principal highway
 3. R/W Section number
 4. Parcel number
 5. Date of preparation of the description
- b. The title of the condemnation shall refer to the principal owner shown by the title report. For this purpose, the principal owner is the person or corporation having a fee interest, directly or in trust, who by warranty deed or other instrument may convey title to the

state. A person purchasing under valid contract is considered a fee owner as fee owner holds equitable title and would be a fee owner, if their contract were fully executed.

- c. The preamble of the description shall form an introduction to the specific description and shall contain the nature and extent of the estate to be acquired by the state in the condemnation action. The preamble shall describe the general location of the land using the U.S. Geological Survey subdivision, section, township, range, meridian, county, and state, or within a dedicated sub-division of a city or county, giving reference to the recording data of the dedicated plat. Following the general location of the land, the particular highway, for which this parcel or parcels are being sought, shall be indicated by reference to the standard highway designation format.
- d. The specific description of the property to be acquired shall be set out by metes and bounds, if practical. Alternatively, if a metes and bounds description is not possible to obtain, or too extensive, a line or lines of description shall be tied to legal subdivisions, or to known property lines. Centerline descriptions shall be used only when no other description is practical.
- e. The amount of land sought to be taken shall be stated in acreage or square feet or meters for each parcel. This amount must be the same as reflected in the ownership sheet of the right of way plans map and should also agree with the amount contained in the appraisal. Any variation between these amounts must be resolved prior to submitting the description to the ADOT Office of Legal Advisor.
- f. Any parcel to be acquired by the State lying within the permanent right of way, and to be used exclusively for highway purposes, shall be acquired by obtaining a fee simple interest.
- g. The wording for a taking will be, "For state or interstate highway purposes, a fee simple estate in and to a parcel of land situated in the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 12, Township 13 South, Range 13 East, Gila and Salt River Base Meridian, Maricopa, State of Arizona, lying within the right of way of the (state or interstate) Highway described as follows: (Description to be taken.)"
- h. When the acquisition calls for a taking of land outside the right of way, where it will be necessary to construct and maintain a facility such as a drainage ditch, dyke, slope, channel change, or temporary construction feature, the type of taking shall be clearly indicated. This may be either permanent or temporary in nature. Such facts shall be reflected in the preamble.
- i. In certain cases, the easement required will be a type where the abutting owner will have certain rights of use of the area, such as a drainage ditch or slope easement, where grazing will be permitted, or other limited use not inconsistent with the state's requirements. In any case, for an easement for such purposes, there shall be no fence or wall, which will preclude such use of the land or entry thereon. Any taking, which would require fencing or exclusion from the area, must be considered to be part of the right of way, and in such a case, a fee simple estate will be acquired. This fact shall be thoroughly investigated and determined before deciding into which category it shall be placed. The fact that a parcel may have been designated as an easement prior to reaching condemnation is not necessarily a true indication of its nature. Each case shall

be carefully considered according to the facts surrounding the acquisition and the construction plans examined to determine how the property will be affected. The type of easement will indicate the language to be used in the descriptions. However, each case may require variations to cover the exact nature of the taking.

1. For a slope easement, the wording will be "For highway purposes, a perpetual easement to construct and maintain a highway slope over and across a portion the Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, Township 2 South, Range 3 East, Gila and Salt River Base and Meridian, Maricopa County, State of Arizona, described as follows: (Description of land taken for the easement)." Following the specific description, the following clause shall be inserted, if appropriate: "Reserving unto the owners of the above-described parcel of land, their successors or assigns, the right to use and occupy said land for purposes not inconsistent with the construction and maintenance of said highway slope."
2. For a drainage or dyke easement, the wording will be "For highway purposes, a perpetual easement to construct and maintain a drainage ditch (the exact specific feature must be set out) over and across a portion of the Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 15, Township 3 North, Range 5 East, Gila and Salt River Base Meridian, Coconino County, State of Arizona, described as follows: (Description of land covered by easement)." Again, the reservation clause shall be used and made suitable to the type of construction feature required for the easement, such as: "Reserving unto the owners of the above described parcel of land, their successors or assigns, the right to use and occupy said land, provided said use shall not in any way conflict with or obstruct adequate drainage or maintenance of said drainage ditch."
3. In cases of construction easements, the exact purpose and use of the land must be delineated, such as a detour, haul road, turn-out, overpass, or other construction requirement: "For highway purposes, a temporary easement for construction of a "detour road" over and across a portion of the Southwest quarter of the Southeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 14, Township 2 South, Range 3 East, Gila and Salt River Base and Meridian, Maricopa County, State of Arizona, described as follows: (Description of property covered by easement)."

6.17 Description of Access Rights

- a. Following the general description, a description of access rights generally will follow. When applicable, the access clause shall follow the specific description and shall refer to the highway to be constructed, or specific parts thereof, wherein access will be denied, limited, or permitted, and also setting forth any point or points of limitation.
- b. The right of access is generally considered to be a right appurtenant to real property abutting upon an existing road, street, or highway. Although the right of access does not exist along every foot of the of the abutting property, any denial or substantial impairment of these rights will normally require that compensation be paid as damages to the property, as reflected by a proper appraisal.

- c. When a limited access highway facility is to be constructed in substantially the same location as a prior existing highway, road or street, and additional right of way is to be acquired to accommodate said construction, it is essential that the right of access be extinguished by proper recitation in the complaint.
- d. If access is to be denied a parcel of abutting land, it is necessary to extinguish the right of access by proper recitation in the complaint of that right alone when no additional right of way is being required from the ownership.

6.18 Special Assignments

In addition to the functions and procedures outlined in the previous paragraphs of this chapter, Right of Way Administration is at various times as required, is requested to furnish assistance or expertise relevant to the professional experience and abilities of personnel within the Section, for other Divisions and Sections within ADOT, and for other agencies and groups within the state government.

- a. Listed below are some of the typical special assignments performed by the Right of Way Administration Section:
 - 1. Provide court testimony.
 - 2. Perform legal research.
 - 3. Perform special research of court and public records relative to specific cases being processed by the Attorney General.
 - 4. Furnish an opinion based on Arizona Revised Statutes to R/W Agents in regard to title problems, settlement procedures for estates, etc.
 - 5. Furnish an opinion based on Arizona Revised Statutes and assistance in research and preparation of special recommendations and resolutions for Transportation Board consideration.
 - 6. All requests for opinions of the Attorney General will be submitted to the ADOT Office, through Right of Way Administration.

Chapter 7 Condemnation Procedures

7.01 Purpose

The purpose of this chapter is to describe the responsibilities and general procedures of the Condemnation Function.

7.02 Responsibilities

The Condemnation Functions is responsible for furnishing support to the Office of Legal Advisor of ADOT and particularly to the State's Trial Attorney in all matters pertaining to a condemnation action subsequent to the filing of the complaint.

- a. Maintains a calendar of assigned condemnation actions.
- b. Assists the trial attorney during the course of a trial.
- c. Confirms the information contained in the parcel file.
- d. Requests additional data when required.
- e. Coordinates exhibits with the Graphic Artists in the R/W Plans Section.
- f. Coordinates with various sections, services, and districts of ADOT for data and testimony as needed.

7.03 Preparation for Trial

Normally, by the time a condemnation action is tried, construction on the project is underway or virtually completed. Buildings or other improvements within the acquired portion may have been demolished and removed. Because this action must be filed prior to letting bids for construction, the "before" photographs (aerials for appraisal) must be studied. If, in the opinion of the trial attorney, additional photographs, plans, or exhibits are required, this will be a condemnation function, when applicable.

7.04 Field Investigations

- a. Field investigations, when applicable, will be performed to confirm factual data and to discover other characteristics, which may be peculiar to the particular parcel of land being investigated, and which may be contentious in trial. Some of the facts to be considered in the field investigations are:
 1. Topography
 2. Flora
 3. Drainage
 4. Fencing (type, conditions, locations, etc.)
 5. Availability of water
 6. Type of soil
 7. Improvements (if any)
 8. Measurements of improvements (or any distance that may be a factor in trial)
 9. Relationship of the highway improvement involved, such as:
 - (a) Access to the property prior to highway improvement
 - (b) Access after highway improvement
 - (c) What impairment of access will be caused
 - (d) Any effect the highway will have on the "before" and "after" level of the property
 - (e.) Drainage improvements

- b. During the field investigation, the investigator will take photographs of the land being investigated. This procedure is followed so that if any questions arise during the trial regarding the land, highway, or their relationships with each other, a photograph will be available to correctly show the subject.

7.05 Other Condemnation Duties

- a. Another condemnation duty is to keep all interested parties informed of the status of all condemnation actions, trial dates, scheduled court appearances, and changes in scheduled disposition of the action.
- b. To obtain approval for an expert witness if required by the trial attorney.

7.06 Use of Other Work Order Forms

When reproduction is necessary, a Reproduction Work Request Order Form (current form available by request) is completed and sent to the Reproduction Branch of ADOT. For aerial photographs, a Photogrammetry and Mapping Section Work Order - Photo Lab Form (current form available by request) is prepared and delivered to the Photogrammetry and Mapping Section of the Arizona Department of Transportation.

Chapter 8 Recording of Condemnation Data

8.01 Purpose

The purpose of this chapter is to describe the routine handling, transmittal, recording, and storage of condemnation data.

8.02 Receipt of Acquisition Package

After receipt of the acquisition package containing the condemnation transmittal sheet from R/W Acquisition Section, the determination to condemn or not to condemn is made by the Chief R/W Agent and the Condemnation Support Team.

8.03 Transaction Report

If the decision is made to condemn, a "Transaction Report Form" (Exhibit 9.09) will be prepared for a parcel for permission to condemn, or for permission to make a judgment payment from either trial or settlement without trial. A Transaction Report for each parcel is prepared and transmitted to R/W Operations Section for review prior to submitting it to the Deputy State Engineer, Highway Development Group, for approval. After the report is approved, the R/W Operations Section Manager is notified of any pending judgments to be paid, project number, amount, date, and amount of cash bond.

8.04 Procedure for Routing and Recording Acquisition File

After the acquisition package, with the transmittal sheet, is received from R/W Acquisition Section, the data is entered into the condemnation data base computer. All pertinent information is entered.

8.05 Posting of Bonds

Article 2, Section 17, of the Arizona State Constitution provides that the amount required to be deposited for obtaining immediate possession in eminent domain proceedings may be secured by surety bond or cash deposit. In order to gain an Order of Immediate Possession, the following course of action is taken.

a. Surety Bonds

1. Two certified copies of the Order for Immediate Possession (OIP) are received from the ADOT Office of Legal Advisor.
2. One certified copy of the OIP is sent to the County Recorders Office in which the property is located for recording.
3. When the recorded, the OIP is returned from the County Recorders Office, a "County Assessor Notice Letter", (Exhibit 9.11) is sent to the appropriate county assessor's office informing them to remove the property from the tax rolls.
4. The following information will be posted in the Condemnation data base computer and a "Payment Notification Letter" (Exhibit 9.10) is sent out:
 - (a) Date judgment is signed
 - (b) Amount of judgment
 - (c) Whether bond is surety or cash

b. Cash bonds: When a cash bond is posted, the above procedures, plus all of those listed below, are followed:

1. Notify R/W Operations Sections Accounting Unit of amount of money needed for the bond deposit, project, and parcel numbers.
2. Obtain the R/W Parcel File and complete the information on the Condemnation Record regarding the Order for Immediate Possession, attach the two copies of Order for Immediate Possession, and hand carry the file to R/W Operations Section.
3. Note on the tickler file the date, parcel number, and when sent to R/W Operations Section.
4. The R/W parcel file is returned to the R/W Titles Section and the R/W Group and a Payment Notification, ADOT form 60-6308, notifies the Office of Legal Advisor of the date and amount of the cash deposit to the Court's Clerk.

c. After payment by the ADOT Accounting Unit:

1. A parcel payment notice is sent from the R/W Operations Section to the R/W Titles Section to verify the date of payment.
 2. The State's Attorney is notified of the amount of the judgment and that it has been paid to the Clerk of the Superior Court.
- d. Final Order of Condemnation:
1. Two certified copies of the Final Order of Condemnation are received from the ADOT Office of Legal Advisor.
 2. Descriptions are checked.
 3. R/W Operations Section has the order recorded in the proper county.
 4. The information from the recorded copy of the order is posted in the Condemnation data base computer and on the condemnation record sheet in the parcel file.
 5. The R/W Parcel File is sent to R/W Operations Section to be closed out.

8.06 Payment of Judgments

The condemnation procedures for payment of judgments are as follows:

- a. The R/W Titles Section receives two certified copies of the judgment from the ADOT Office of Legal Advisor.
- b. A check is made to ascertain whether the case has been placed on the Transaction Report for approval of payment.
- c. The R/W Operations Section is notified:
 1. Amount of judgment, parcel number, project number, date of possession by the state.
 2. Whether the bond was surety or cash deposit and if cash deposit, whether or not it has been withdrawn by the defendant.
- d. After payment of the judgment has been approved by the Deputy State Engineer, Highway Development Group:
 1. The copy of the judgment is attached to the parcel file
 2. The legal description is double-checked
- e. The judgment information is posted on the Condemnation Record and the Condemnation computer.

8.07 Settlements Without Trial

When, prior to the trial of a condemnation action, the State's Attorney and the defendant reach an agreement that is acceptable to the defendant, and appears to be in the best interests of the state, the attorney may propose that the action be settled without trial. In proposing a settlement without trial, the attorneys documented recommendations are submitted on the form, "Report and Recommendations of Settlement Without Trial."

- a. When a settlement without trial is approved by the Condemnation Support Team and the Chief R/W Agent, the necessary information is put on the Transaction Report for the Deputy State Engineer's approval.
- b. Assurance is made that the recommended settlement is fully documented and supported in accordance with 49 CFR. .24.102(1):

Administrative Settlements

1. Administrative settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) support such a settlement.
 2. This documentation must clearly support an opinion that the settlement is justified and in the best public interest.
- c. If the settlement without trial is approved by the Deputy State Engineer, the ADOT Office of the Attorney General will prepare a judgment for the courts signature and process through the R/W Titles Section.

Chapter 9 Exhibits

The following exhibits are intended for reference purposes. Some of the exhibits have been scanned in order to include them in this manual. .

[9.01 Computer Access Request Form](#)

[9.02 Computer Access Agreement](#)

[9.03 Internet – Heat Service Request](#)

[9.04 Dress Code Memo of Compliance](#)

[9.05 Parties Defendant](#)

[9.06 Condemnation Check Sheet](#)

[9.07 Letter to Attorney General’s Office \(Condemnation Transmittal\)](#)

[9.08 Condemnation Record](#)

[9.09 Transaction Report](#)

[9.10 Payment Notification](#)

[9.11 County Assessor Notice Letter](#)

To Return to Main Table of Contents – [Click Here](#)

To Return to the Administration Table of Contents ~ [Click Here](#)

Exhibit 9.02 Computer Access Agreement



Janice K. Brewer
Governor

John S. Halikowski
Director

Arizona Department of Transportation Administrative Services Division 206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

John H. Nichols
Division Director

Acceptable Use Agreement

I understand that my user identification and password combination is my means of access to the Arizona Department of Transportation's (hereinafter referred to as Department) electronic information systems and that I am accountable for all actions I undertake with my User ID. I further understand that I am bound and agree to abide by all applicable federal laws, state laws, statewide and Department policies. I also agree that I will not:

1. reveal my Department password(s) to anyone;
2. use another person's Department password(s);
3. ask another person to reveal their Department password(s);
4. reveal Department data to any person or entity unless in conjunction with state business;
5. attempt to or access Department data not related to my job duties.

I understand there shall be no unauthorized duplication or distribution of software on Department electronic computer equipment. This includes the duplication or distribution of software licensed to the Department for private use or for sale to third parties. I understand the performance of such unauthorized duplication or distribution shall be subject to civil and criminal penalties under both state and federal statutes.

I have read and understand the following Department policies:

- [Electronic Equipment](#) (ITM-5.01)
- [Email](#) (ITM-8.01)
- [Internet](#) (ITM-4.01)

I agree to comply with all terms and conditions of these policies. All state owned information and technology resources including access to electronic equipment, email and the Internet are furnished by the Department for use in conducting state business. The Department does not tolerate improper use of its information and technology resources. Any such improper use shall result in disciplinary action up to and including termination of employment (employee) or contract termination and disqualification from future work (consultant/contractor). In addition, such improper use may result in the initiation of legal action (civil or criminal), or notifying appropriate law enforcement authorities for further action. I understand the Department reserves the right to monitor and log all network activity, including electronic equipment, email and Internet use with or without notice. I have no expectation of privacy in the use of these resources.

I have read and understand Arizona Revised Statute 38-448 (State employees; access to internet pornography prohibited; cause for dismissal; definitions) and agree to comply with all terms and conditions. I agree not to utilize ADOT computer equipment to access, forward, print or store pornography.

By typing 'agree', I confirm that I have read this agreement, understand it, and agree to comply with its terms and conditions including all statutes, rules, and policies referenced above.

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.03 Internet – Heat Service Request

HEAT Process for All Users

1. All HEAT tickets will be opened and closed in accordance with the HEAT Call Logging Guidelines. This includes keywords, sub-keywords, assignments, and detail screens.
2. The first assignment will always be made to a group using the approved group codes in the HEAT Call Logging Guidelines.
3. Assignment group must designate a person to monitor their group's HEAT queue. It should be polled **at least** once every hour.
4. This person acknowledges and resolves the HEAT group assignment. **Auto Task Available.**
5. Designated group person then reassigns ticket to a technician within their group or to a different group on a new assignment screen. **Auto Task Available.**

The Details and Comments box should be used for brief notes to the assignee, such as bring a specific tool, call customer to schedule time, or why it was assigned to them. ALL other comments are to be entered into the journals.
6. Assignee can be automatically paged (if pager information exists in HEAT) or sent an email from HEATSQL when an assignment has been made to him/her.
7. Assignee acknowledges the assignment and should contact the customer(s) with an estimated time of arrival or to let the customer(s) know the ticket is being worked on within 24 hours.
8. Assignee should monitor their queue **no less than** twice per day.
9. All open tickets must be sufficiently statused (current journal entries explaining what's going on with the ticket, who's doing what, who's waiting for parts from whatever vendor or "need such and such information from customer who was not available," "meeting scheduled for such and such a date," or "code still to be written for new application," etc. **Journal entries must be complete, professional, and businesslike.**

Journal entries are extremely important! They are an essential part of customer service for all areas. Your journal entries are the only source of information for status for anyone checking on an open ticket. It is essential that you take time to "work your queue" by acknowledging assignments, completing journal entries and/or close descriptions, resolving assignments and closing those tickets that are completed.
10. When incident/problem has been resolved, assignee will update the Close Information field with an explanation of what was done to resolve the incident and their assignment will be resolved and the HEAT ticket closed.
11. If the Close Description is very detailed and/or involved, please provide an overview in the Close Description on the Call Log screen and provide a Journal entry for the detailed information.

NOTE: If at any time you need assistance with any of the above steps, please call the ADOT Support Desk, 602-712-7249. Any one of the team members will be glad to assist you with whatever you need, such as making journal entries, acknowledging or closing tickets, guiding you in opening a ticket, etc.

Revised 03/16/04

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.04 Dress Code Memo of Compliance

(Most Current and Approved Format)

(Current Date)

TO: Chief Right of Way Agent
Right of Way Group

FROM: Right of Way Employees and In-House Consultants

RE: Dress Policy

I have received and reviewed the ADOT Right of Way Dress Policy dated October 6, 1998.

(Print Name)

Signature Date

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Exhibit 905 Parties Defendant

PARTIES DEFENDANT

DATE:

PROJECT:

HIGHWAY:

SECTION:

COUNTY:

PARCEL:

NAME:

ADDRESS:

INTEREST:

NAME:

ADDRESS:

INTEREST:

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.06 Condemnation Check Sheet

ARIZONA DEPARTMENT OF TRANSPORTATION
R/W CONDEMNATION UNIT
CONDEMNATION CHECK SHEET

Parcel No.	
Owner	
Highway	
Section	
Project No. Old	
Project No. New	
Approval to Condemn Date	

Condemnation Report	
Appraisal	
Resolution	
Description - Exhibit "A"	
Strip Map - Exhibit "B"	
Exhibit "C"	
Defendants List - Exhibit "D"	

Easements	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Title Report	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Hazardous Waste	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Phase I Report	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/> N / A
Phase II Report	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	
Phase III Report	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	

Lead R/W Agent:	Phone #
Comments:	

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.07 Letter to Attorney General's Office (Condemnation Transmittal)

ARIZONA DEPARTMENT OF TRANSPORTATION

OFFICE MEMO

TO: RICHARD E. ALLEMANN, Chief Counsel
GLEN HARLESS, Special Assistant
Attorney General's Office

FROM: THOMAS R. WHEELER
Right of Way Condemnation Unit

RE: Project:
Highway:
Section:
Parcel:
Owner:

Date Received:
Date to A.G.:
Priority:

Attached is the condemnation package for the above referenced parcel which we would appreciate your preparing for litigation.

cc:

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.08 Condemnation Record

RIGHT OF WAY CONDEMNATION RECORD

STATE VS. _____	Parcel: _____
State Attorney _____	Project: _____
Atty. for Defendant _____	Highway: _____
Address _____	Section: _____
	Legal No: _____
	County: _____
	Cause No: _____

CONDEMNATION ACTIONS (Initials & dates for each entry)

Date Received: _____ Title Report Ordered: _____ Recorded**/_____

Description Prepared By: _____

Exhibit Map Prepared By: _____

Parties Defendant Prepared By: _____

Director's Approval to Condemn: _____

APPRAISALS	AMOUNT	APPROVED
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
Transmitted to Legal: _____		
Remarks: _____		

TRIAL PREPARATION

Surveyed _____ By _____

Photographs _____ Cost _____

Interrogatories Answered _____ Date _____

Remarks: _____

COURT PROCEEDINGS

Date Filed _____ By _____ Order to Show Cause _____

Date of Valuation _____ State Attorney _____

Pre-trial Date _____ Right of Entry _____

Trial Date _____ Amount Deposited Cash/Bond _____

Court or Jury _____ OIP Recorded _____

State Appraisal _____ Assessor/Treas. Notified _____

Def. Appraisal _____ Legal Notified _____

Trial Report _____

Appeal _____ By _____ Final Disposition _____

JUDGMENT OR STIPULATION

Date _____ Amount _____ Date Received _____

Award: _____

Land Taken _____ Dir. Approval _____

Damages _____ To H/W Finance _____

Benefits _____ Claim Mailed _____

Interest _____ Claim Received _____

Costs _____ To Accounting _____

Total _____ Warrants Mailed _____

Legal Notified _____

FINAL ORDER OF CONDEMNATION

Received _____ Recorded _____ Dkt./Book _____ Page _____

Return of Deposit _____

TO VOUCHERING & CENTRAL FILES

Date _____

General Remarks: _____

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.09 Transaction Report

**ARIZONA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
TRANSACTION REPORT**

DATE: _____
 PROJECT: _____
 HIGHWAY: _____
 SECTION: _____
 PARCEL: _____
 PAYEE: _____
 INSTRUMENT: _____
 DESCRIPTION: _____
 AREA: _____

SETTLEMENT DATA

ACQUISITION		RELOCATION		CONDEMNATION	
Land	\$ _____	Moving Expenses	\$ _____	Trial	_____
Improvements	_____	Actual		W/O Trial	_____
Damages	_____	Schedule			
Leasehold Int.	_____	Negotiated			
Less Salvage	_____	In Lieu Of		Land	_____
		Rental Supplement	_____	Improvements	_____
		Replacement Housing	_____	Severance	_____
		Mortgage Int. Diff.	_____		
Sub-Total	_____	Incidental Expense	_____		
Closing Cost	_____	Site Search	_____		
		Tenant to Purchase	_____		

TOTAL	\$ _____	TOTAL	\$ _____	TOTAL	\$ _____

APPRAISAL DATA (S) Staff (F) Fee

CHAIN OF TITLE

REMARKS

RIGHT OF WAY REPORT # _____

PAGE _____

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.10 Payment Notification

**ARIZONA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY CONDEMNATION UNIT
PAYMENT NOTIFICATION**

TO: ATTORNEY GENERAL
Legal Division

FROM: THOMAS R. WHEELER
Right of Way Condemnation Unit

RE: STATE VS _____

Project: _____
Parcel: _____
Cause: _____
Legal: _____

Warrant No. _____ in the amount of \$ _____ was issued to _____ by the
Right of Way Fiscal Section on _____ for:

- Settlement of Partial Judgment
- Settlement of Judgment
- Cash Bond Deposit
- Surety Bond Premium
- Additional Interest Paid
- Inverse Condemnation - (no bond required)

Will you please secure from the court:

- Partial Final Order of Condemnation
- Final Order of Condemnation
- Release of Cash Deposit
- Release of Surety Bond

This information must be made a part of the files of the Right of Way Group.

To Return to this Section Exhibits – [Click Here](#)

Exhibit 9.11 County Assessor Notice Letter

Most Current and Approved ADOT Letterhead

Re: Owner:
Tax No.:
Legal No.:
Parcel No.:

Dear Assessor:

Arizona Revised Statutes, Section 12-1123(D), reads:

"If an order is made letting plaintiff into possession prior to the recording of the final order of condemnation, the plaintiff shall record the order in the office of the county recorder of county or counties in which the property is located and upon the recording so much of the defendant's property as is affected by the order shall immediately be granted tax exempt status for future tax rolls and any unpaid property taxes which have been levied, including penalties and interest, on the property shall be paid by the county treasurer in the county in which the property is located pursuant to § 12-1116."

We hereby notify you that said Order affecting the property described in the attached Exhibit "A" was duly recorded in _____ on _____.

Sincerely,

Right of Way Condemnation Unit

Attachment

cc:

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