

PLANS PREPARATION MANUAL, VOLUME 1

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ Presenter:

- + Tom Shields

- + Deputy Director, Right of Way Production

PLANS PREPARATION MANUAL, VOLUME 1

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ ***Task:*** (Asst. Secretary Blanchard) Form a task team from Central Office and the Districts to address the department's practices in obtaining Rights of Entry onto private property
- ✘ ***Objective:*** Promote consistent treatment in the use of Temporary Construction Easements and License Agreements

REVISIONS TO CHAPTER 12, RIGHT OF WAY

Task Team Members:

- × *D1 Greg Bowne*
- × *D2 Marcia Henderson*
- × *D3 Grant Miles*
- × *D4 Bill Taylor*
- × *D5 Jack Adkins*
- × *D6 Javier Bustamante*
- × *D7 David Eaton*
- × *TE Paul Satchfield*
- × *CO Tom Shields*

REVISIONS TO CHAPTER 12, RIGHT OF WAY

Current practices

- ✘ *Temporary Construction Easements*
- ✘ *Permanent Easements*
- ✘ *Perpetual Easements for Harmonizing*
- ✘ *License Agreements*
- ✘ *Driveway Connection Permits*

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ **Temporary Easements** (a temporary right of use over, under or through the property of another) are used when it is necessary to temporarily occupy a parcel for a specific purpose such as construction of improvements requisite of the project, construction of temporary detours, stock piling materials or parking equipment. A Temporary Easement may also be necessary when it is determined that reestablishing access causes a compensable impact to the use of the abutting land or causes a safety issue due to a change in grade. No improvement which requires maintenance by the Department beyond the term of the easement can be constructed on a temporary easement.

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ **Temporary Easements – Key characteristics**
 1. Needed for the construction of the project
 2. Condemnable property right and requires full compensation under state and federal law
 3. Subject to Eminent Domain Chapter 73, Florida Statutes affording specific rights to the property owner
 4. We can't walk away from it

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- ✘ **License Agreements** (permission to do a particular thing which without the license would not be allowable) are used to gain access to adjoining properties for sloping, grading, tying in, harmonizing and reconnecting existing features of the licensor's property with the highway improvements to be constructed. This work is solely for the benefit of the property owner. The Department does not compensate for license agreements. If the owner refuses to execute the agreement, the Department will not perform the work.

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- ✘ **License Agreements– Key characteristics**
 1. Not needed for the construction, operation, or maintenance of the project
 2. Not a property right, just a consent from the owner to the department
 3. Work is performed solely for the benefit of the owner
 4. Cannot be condemned and requires no compensation
 5. We can walk away from it

REVISIONS TO CHAPTER 12, RIGHT OF WAY

✘ Primary revisions:

1. Clarify definitions – Revise Temporary Easements
2. Emphasize the need for a joint field review with Design, Right of Way and Right of Way Mapping
3. Clarified considerations to be taken when dealing with driveway connections
4. Emphasized the need for close coordination between Design, Right of Way and Right of Way Mapping in the decision-making process for the use of License Agreements and Temporary Easements

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ Primary revisions (Continued):
 5. Clarify key considerations for when use of a License Agreement or Temporary Easement is most appropriate

Note: There may be further revisions to Chapter 12 on the way

REVISIONS TO CHAPTER 12, RIGHT OF WAY

- ✘ There's a new Innovative Task Team looking at the use of Temporary Easements and License Agreements
 1. Innovative ideas in the process of obtaining rights of entry for driveway reconnections
 2. Further discussion to clarify and build consistency in the use of Temporary Easements and License Agreements

REVISIONS TO CHAPTER 12, RIGHT OF WAY

New Task Team Members:

- × *D1 Greg Bowne*
- × *D2 Joe Jordan / Marcia Henderson*
- × *D3 Grant Miles*
- × *D4 Bill Taylor / Richard Creed*
- × *D5 Fred Loose*
- × *D6 Javier Bustamante*
- × *D7 Marty Hernandez / Ron Chin*
- × *TE Kathleen Joest*
- × *CO Tom Shields*
- × *FHWA Brian Telfair*

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Questions?