

Better Roads Brochure

prepared for the

**South Dakota
Department of Transportation**



by the

RIGHT OF WAY PROGRAM

INTRODUCTION

This brochure has been prepared to serve two purposes. The first is to provide you with information pertaining to the process involved in a highway project from initial planning to completed construction. The second purpose is to provide information to owners whose property will be affected by the construction or improvement of a transportation project.

To provide uniform and equitable treatment for persons whose property is acquired for public use, Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amended it in 1987. This law, called the Uniform Act, is the foundation for the information discussed in this brochure.

All Federal, State, and local government agencies, as well as others receiving Federal financial assistance for public programs and projects, requiring the acquisition of real property, must comply with the policies and provisions set forth in the Uniform act and the regulation. Revised rules for the Uniform Act are published in the Federal Register annually. The rules are reprinted each year in the Code of Federal Regulations (CFR), Title 49, Part 24. Acquisition information can be found on the Federal Highway Administration Office of Real Estate Services website: https://www.fhwa.dot.gov/real_estate/index.cfm

The DOT is dedicated to keeping the landowners of the State informed about the highway program and seeking their participation in developing the best possible highway system.

Government programs designed to benefit the public often result in acquisition of private property and sometimes the displacement of people from their residences, businesses, or farms. Acquisition of this kind has long been recognized as a right of government and is known as the power of eminent domain. The Fifth Amendment of the Constitution states that private property shall not be taken for public use without just compensation.

We ask that you read this brochure carefully as it is intended to answer many of the questions people have concerning the highway program and the acquisition of property for highway purposes.

The South Dakota Department of Transportation provides services without regard to race, color, sex, sexual orientation, gender identity, religion, national origin, age or disability, according to the provisions contained in SDCL 20-13, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990 and Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994.

Any person who has questions concerning this policy or wishes to file a discrimination complaint should contact the Department's Civil Rights Office at 605-773-3540.

THE STATE & U.S. HIGHWAY SYSTEM

A modern highway system is vital to our progress and to perpetuate this progress requires additional and improved roadways.

It is the responsibility of the South Dakota Department of Transportation to serve the needs of the citizens of the State through construction and maintenance of a quality system of highways. To fulfill this responsibility the DOT utilizes the following series of steps in the planning, design and construction of a highway:

1. Transportation Planning
2. Programming
3. Preliminary Engineering
4. Public Meetings
5. Project Design
6. Landowner Meetings
7. Property Valuation
8. Right of Way Acquisition
9. Contracts Let
10. Construction

1. TRANSPORTATION PLANNING

Transportation planning includes traffic surveys and studies of transportation needs. Data and information from these studies is used as input to several management systems that provide details on future transportation desires and programming alternatives.

When a highway project is proposed the general location is selected based on considerations of safety, traffic volume, environmental, construction, and maintenance costs. These factors are weighed along with the input from public meetings and provide the basis for determining the need for a new or improved highway corridor.

2. PROGRAMMING

After the need for a new or improved highway corridor is established, it is presented to the Transportation Commission. Annually the Commission reviews the priority of all transportation needed improvements throughout the State. On the basis of priority and anticipated revenue, highway improvements are placed in the long-range construction program.

3. PRELIMINARY ENGINEERING

DOT highway design engineers, through the use of aerial photographs and ground surveys, review the alignment and topographic elevations in the area to be served. Safe, feasible routes and alternatives are then selected. This information is reviewed by DOT personnel who aid in selecting the most practical improvement option(s). Preliminary Plans are drawn for presentation at a public meeting.

4. PUBLIC MEETINGS

A public meeting for the location and design of the highway is held in the general locale of the project. Notice of the scheduled meeting is published in local newspapers. Efforts are made to contact landowners by mail that reside or have interest along the proposed project to be constructed.

Following a short presentation of the overall project, you will be given the opportunity to comment and ask questions concerning the proposed highway improvement. This is your time to provide input which will be considered in reaching a final decision on the proposed project and is important to the process. If you are unable to attend this meeting, you can request a copy of the presentation.

Please notify the DOT ADA Coordinator within 48 hours of public meetings if you have special needs for which this agency will need to make arrangements. The telephone number for making special arrangements is 605-773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

5. PROJECT DESIGN

Design plans of the construction project begin after a decision has been reached as to which alternative(s) the project will follow. Design plans detail how the highway improvement will be built. The plans show grades, drainage, slopes, and other details as well as the limits of the necessary right of way, or easements which must be acquired for the project. The design of a project involves 3 major steps:

- a. Preliminary Design Meeting
- b. Landowner Meetings
- c. Final Design Meeting

During Preliminary and Final design meetings, DOT Road Design personnel, Bridge Design, Hydraulics, Surfacing, Right of Way, Utilities, and Environmental offices review the project site. These design meetings are our time to review the physical features shown on the plans that are impacted parallel to the project limits of construction. County and City officials are invited when their respective responsible areas are affected by a state construction project.

6. LANDOWNER MEETINGS

The landowner meeting is a time for the design engineer, right of way coordinator, area construction engineer, access engineer, and

environmental coordinators to meet with the families and business people in a face to face meeting that have interest in the future construction corridor. The area construction engineer sends a letter of invitation to owners of land along the project corridor asking them to call and set up a time during a day when the DOT group will be in the vicinity. Thirty minute blocks of time are set for discussion and information exchange that will aid in the concerns of both parties. A copy of the meeting discussion minutes and plan sheet for the pertinent location for each owner can be supplied in the days following the meeting. This meeting provides the owners of adjoining lands the opportunity to share their thoughts and suggestions on the proposed preliminary design impacts on the land and how they use or operate on the adjoining land relative to the proposed highway project. The design staff will take these comments under consideration as the project design is further developed.

7. PROPERTY VALUATION

Appraisal is the means by which the market value is estimated for the property to be acquired or any ensuing damages caused by the project to the remainder of a property. The appraisal is based on the plans and plats prepared after final design of the project is complete.

Typically, an appraiser will inspect each property to determine the extent of the proposed acquisition and how the completed project will affect any remaining property.

Unless a property is minimally impacted by the project, the appraiser will give you or your designated representative an opportunity to accompany them on an inspection of the property. You can explain operations and property features which may affect value. The appraiser will gather relevant information concerning the value of your property such as recent sales and rental values.

Your property is then compared to similar properties that have been sold recently in the locality. The price paid and conditions of each comparable sale are carefully investigated as a part of estimating the market value of the property. The courts have defined market value as:

The highest price for which property considered at its best and most profitable use can be sold in the open market by a willing seller to a willing buyer, neither acting under compulsion and both exercising reasonable judgment. The market value of property includes every element which affects such value, and which would influence a willing and able purchaser at the time of acquisition. Market value does not mean speculative or remote value, nor one affected by sentimental or adverse elements. The measure of consequential damages to the remainder is the difference between the fair market value of the remainder of the tract immediately prior to the acquisition and its value thereafter.

The appraisal is examined by a review appraiser to ensure accurate data and good judgment was used.

A sound appraisal aids the assurance of a mutually satisfactory settlement. Both the State and the property owner have an interest in a sound appraisal.

EXCEPTIONS TO THE APPRAISAL REQUIREMENT

The Uniform Act requires appraisal of all real property to be acquired, but it also authorizes a simpler valuation process for waiving that requirement for small parcel or low value acquisitions.

Regulations provide the appraisal may be waived:

- If you elect to donate the property and release the DOT from the obligation of performing an appraisal, or
- If the Right of Way program manager or appraiser believes the acquisition of your property is uncomplicated after reviewing available data that supports a fair market value likely to be \$10,000 or less, the DOT may prepare a waiver valuation, rather than an appraisal, to estimate the fair market value.

If the DOT believes the acquisition of the property is uncomplicated and a review of available data supports a fair market value likely to be over \$10,000 but less than \$25,000, the DOT may prepare a waiver valuation

rather than an appraisal to estimate the fair market value. After you have discussed the waiver valuation with a Right of Way agent, you may elect to have the DOT appraise your property.

JUST COMPENSATION

Once the appraisal of fair market value is complete, a review appraiser from the DOT will review the report to ensure that all applicable appraisal standards and requirements are met. When they are, the review appraiser will give the approved appraisal to the DOT appraisal manager to use in determining the amount of just compensation to be offered for the real property.

If the DOT is only acquiring a part of your property, there may be damages or benefits to the remaining property. Any allowable damages or benefits will be reflected in the just compensation amount. The acquisition agent will prepare a written offer of just compensation for you when negotiations begin.

BUILDINGS, STRUCTURES, AND IMPROVEMENTS

If buildings, structures, or other improvements deemed as real property on a parcel to be acquired must be removed or are determined to be adversely affected by the project corridor, an appraisal must be completed to determine fair market value.

TENANT-OWNED BUILDINGS, STRUCTURES, AND IMPROVEMENTS

Sometimes tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. If, under State law, the improvements are considered to be real property, the appraiser must determine fair market value for these improvements as real property.

In order to be paid for disrupted improvements, the tenant-owner must assign, transfer, and release to the agency all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements.

For an improvement, just compensation is the amount the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever amount is greater.

A tenant-owner can reject payment for the tenant-owned improvements and obtain payment for his or her property interests in accordance with other applicable laws. The DOT cannot pay for tenant-owned improvements if such payment would result in the duplication of any other compensation otherwise authorized by law.

If improvements are considered personal property under State law, the tenant-owner may be reimbursed for moving them under the relocation assistance provision.

The DOT acquisition agent will personally contact the tenant-owners of improvements to explain the procedures to be followed. Any payments must be in accordance with Federal rules and applicable State laws.

Any separately held ownership interests in the property, such as tenant-owned improvements, will be identified by the DOT appraiser, acquisition agent, or relocation agent.

8. RIGHT OF WAY ACQUISITION

THE WRITTEN OFFER

The acquisition phase will begin by contacting you or your designated representative to discuss the purchase of the real property and/or temporary construction easements. When practical, a representative from the Right of Way office will meet with you in person to discuss the project parameters and deliver the written offer of just compensation. If

a personal visit is not feasible, the written offer will be made by regular or electronic mail and followed up with a contact by telephone or electronic mail. When multiple owners of the property exist, they will be contacted and provided information.

A right of way agent will explain acquisition policies and procedures in writing, or by use of an informational brochure or in person.

The written offer will consist of a written summary statement that includes the following information:

- The amount offered as just compensation for land and improvements.
- The description and location of the property and the interest to be acquired.
- The identification of the buildings and other improvements that are considered to be part of the real property.

The offer may list items of real property you may retain and remove from the property. If you decide to retain any or all of these items, the offer will be reduced by the value of the items. You will be responsible for removing the items from the property in a timely manner. The agent may elect to withhold a portion of the offer until the retained items are removed by a specified date from the property.

The agent will negotiate with each person who holds a separate ownership interest, or, may negotiate with the primary owner and prepare a check payable jointly to all owners.

The agent will give you a reasonable amount of time to consider the written offer and ask questions or seek clarification of anything that is not understood.

If you believe all relevant facts about the property or its market value were not considered during the appraisal, you may present such information at this time. Modifications in the proposed terms and conditions of the purchase may be requested. The DOT will consider reasonable requests that are made during negotiations.

PARTIAL ACQUISITION

In the event that the state intends to acquire only a portion of a property, the state must provide the amount to be paid for the part to be acquired.

In addition, an amount will be stated separately for damages, if any, to the portion of the property you will keep.

If the appraiser determines the remainder property will have little or no value or use to you, the appraiser will consider this remainder to be an uneconomic remnant and will set a value to purchase it. You have the option of accepting the offer for purchase of the uneconomic remnant or keeping the property.

AGREEMENT BETWEEN YOU AND THE DOT

When you reach agreement with the right of way agent on the offer, you will be asked to sign an option to buy, a purchase agreement, an easement, or some form of deed prepared by the right of way office. Your signature will affirm that you and the DOT are in agreement concerning the acquisition of the property, including terms and conditions.

If you do not reach an agreement because of some important point connected with the acquisition offer, members of the right of way office and legal office may initiate condemnation proceedings.

The DOT may not take any action to force you into accepting its offer. Prohibited actions include:

- Advancing the condemnation process.
- Deferring negotiations.
- Deferring condemnation.
- Delaying the deposit of funds with the court for your use when condemnation is initiated.
- Any coercive action designed to force an agreement regarding the price to be paid for your property.

SETTLEMENT

The right of way agent will make every effort to reach an agreement with you during negotiations. You may provide additional information, and make reasonable counter offers and proposals for the DOT to consider.

When it is in the public interest, DOT may use the information provided as a basis for administrative or legal settlements, as appropriate.

PAYMENT

The next step in the acquisition process is payment for your property. As soon as all the necessary paperwork is completed for transferring title of the property, the right of way office staff will prepare a voucher for payment.

POSSESSION

The DOT may not take possession of your property unless:

- You have been paid the agreed purchase price, or
- In the case of condemnation, the DOT has deposited with the court an amount for your benefit and use that is at least the amount of the approved appraisal of the fair market value of your property, or
- The DOT has paid the amount of the court award of compensation in the condemnation proceeding.

If the DOT takes possession while persons still occupy the property:

- All persons occupying the property must receive a written notice to move at least 90 days in advance of the required date to move. In this context, the term person includes residential occupants, homeowners, tenants, businesses, non-profit organizations, and farms.
- An occupant of a residence cannot be required to move until at least 90 days after a comparable replacement dwelling has

been made available for occupancy. Only in unusual circumstances, such as when continued occupancy would constitute a substantial danger to the health or safety of the occupants, can vacation of the property be required in less than 90 days.

CONDEMNATION (EMINENT DOMAIN ACTION)

If an agreement cannot be reached, the DOT can acquire the property by exercising its power of eminent domain. It will do this by instituting formal condemnation proceedings with the appropriate State or Federal court.

Condemnation is the legal process of acquiring private property for public use or purpose through the government unit's power of eminent domain.

If the property is being acquired by DOT condemnation authority, the condemnation action will take place in the appropriate court and the procedures will follow State law.

9. CONTRACTS LET

After all the property rights have been secured, the projects are let to contract on a competitive basis. Public lettings are held throughout the year. Qualified and insured contractors are invited to submit bids for each project. Results of these bid lettings are considered, and contracts are let to the lowest responsible bidder.

10. CONSTRUCTION

Highway construction is generally a seasonal industry with most work being done between April and October. Construction of bridges, grading, and paving are elements of a highway project which require special skills and experience. Many different contractors may be found working on a single project because of the special skills or experience required.

QUESTIONS AND ANSWERS

HOW ARE HIGHWAYS FINANCED?

All Federal, State, and urban funds come from highway users in the form of motor fuel taxes, motor vehicle registration fees, and compensatory fees paid by commercial carriers. No property or other taxes are used to finance the construction or maintenance of the state highway system.

WHY DOES THE STATE NEED MY PROPERTY?

Planning studies, research and cost analysis indicate the need for the highway project in your area and the additional impact to your land. The projects attempt to accomplish the maximum public benefit with a minimum of privately owned property being impacted.

WHY DOES THE STATE HAVE THE RIGHT TO BUY MY PROPERTY FOR HIGHWAY PURPOSES?

Federal, State, and municipal governments have the right to acquire the properties they need in order to provide necessary public services. This is called the Right of Eminent Domain (South Dakota Codified Law 31-19 and 21-35). The DOT also has the responsibility under the law to assure just compensation for the property. No private property may be taken for public use without payment of just compensation.

WHAT IS CONTROLLED ACCESS?

Controlled access is defined as “a highway or street especially designed for through traffic and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right of way or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility” (South Dakota Codified Law 31-7-1 and 31-8-1).

South Dakota Codified Law 31-8-6 further states “No person has any right of ingress or egress to, from or across any controlled-access facility

to or from abutting land, except at any designated point at which access may be permitted". Examples of controlled access include:

Interstate systems - traffic is permitted to turn off or on an interstate route only at an interchange.

Primary or Secondary systems - direct access is allowed only at certain permitted points along the highways.

HOW ABOUT ACCESS TO MY PROPERTY?

Access to the state trunk highway system is subject to regulation by the department. When evaluating entrances along a highway, the DOT considers many factors, including safety, efficiency, design standards, and the needs of abutting landowners. If you have concerns about gaining access to your property, you should share those concerns with department representatives at a public meeting or landowner meeting.

Whenever a subdivision of land is proposed, any access consideration to the abutting highway must follow the provisions set forth in South Dakota Codified law 11-3-12.1

WHAT IS A TEMPORARY EASEMENT?

A temporary easement is the right to use a portion of your property for construction purposes of performing work outside the acquired right of way. The landowner retains ownership of the construction easement area and the permission for entry terminates one year after construction of the project has been completed. The terms of termination of the temporary easement are recorded in the temporary easement agreement.

The most common use of temporary easements is for cut slopes, fill slopes, detours, and minor drainage channels.

WHAT IS THE STATE'S POLICY ON FENCING?

The DOT will acquire possession of all fences along the right of way and easement areas and will require the contractors to clear but not salvage the fence. The landowner will be permitted to salvage whatever portion of the fence desired. If a landowner wants to salvage the fence the fence must be removed before the contractor is ready to clear the fence. The DOT cannot promise the contractor will make any delays to permit this salvage. The DOT will not be responsible for retention of livestock when the landowner salvages the fence.

The DOT will provide a fence along the right of way for Interstate projects. On all primary and secondary highway projects, the owners adjacent to the right of way involving fences will be given options for fencing consideration at the time of public meetings or negotiation.

Option 1: The landowner may elect to remove the existing fence or have the DOT remove and not replace the existing fence during construction. If this option is chosen, the DOT will not construct temporary or permanent fence to retain livestock.

Option 2: The DOT will provide a replacement fence with one of its standard types in those areas where an existing fence is being impacted by the project and is within the work limits. If the second option is chosen, the fence provided will be one of the standard types conforming as nearly as possible to the existing fence but in no case will it be less than a four strand barb wire fence. Any temporary fence as part of Option 2 will be provided where necessary to retain livestock when the contractor clears the existing fence. This temporary fence is the property of the contractor. The contractor will remove the temporary fence after the permanent fence has been placed unless specified differently during negotiations.

On Interstate projects, the fence will be located inside the right of way line, remain as property of the State, and be maintained by the DOT. On all primary and secondary highways, any fence provided will be located outside the right of way line and will become the property of the landowner who will be responsible for maintaining it. State fencing examples are shown at the end of the question and answer section.

Fences that are different than the six standard type fences offered by the State will be valued and compensation will be provided to the owner of the fence for replacement.

WILL I BE PAID FOR CROP DAMAGE?

Crop damage will be paid when a crop is damaged or destroyed by the DOT, its employees, agents, or contractors in the normal exercise of their duties in the survey, testing, maintenance, or construction of a State highway project. Crop damage will be paid only when a crop has been planted prior to the State's acquiring title or right of entry to the respective areas and in easement areas where survey stakes have not been set to outline such easement area. Crop damage will not be paid within the acquired right of way or easement area for pasture. Alfalfa is considered a growing crop for this section and is eligible for crop damage.

The Area Engineer will determine if the claimed crop damage meets the above requirements. If so, the Area Engineer will measure the area of crop damaged. The amount of crop damage, or percentage thereof, payment will be based on the above measurements, average yield of adjoining fields, and market price at the time of harvest less a predetermined harvesting cost. Normally the crop damage payment will not be made until after the grading portion of the project has been completed.

WILL LIVESTOCK PASSES BE PROVIDED?

A livestock pass must be justified from an engineering, safety, and economic standpoint. The owner who has a need for a livestock pass should make his/her request known at the landowner's meeting. This request will be forwarded to the Right of Way Program where it is evaluated for consideration prior to the granting or rejection of the request. If the livestock pass is granted the landowner may be asked to contribute to the cost of the structure.

WHAT IF I HAVE AN UNECONOMIC REMNANT?

An uneconomic remnant is a parcel of real property severed from a larger tract of land which the owner is left with after the partial acquisition for highway right of way having little or no value or utility to the owner.

If it is determined there is an uneconomic remnant during the appraisal process the State will offer to purchase it at the appraised value. You have the option of accepting the offer for purchase or keeping the uneconomic remnant.

WHAT ABOUT MY IMPROVEMENTS?

Owners of real property involving buildings or other improvements are generally given options as a part of the acquisition process.

1. The State offers to purchase the improvements outright along with the land. If purchased, the improvements are typically sold at public auction or by sealed bids.
2. If the owner wishes to retain the improvements, at a predetermined salvage value, (s)he may do so. The salvage value will be deducted from the overall purchase price. Relocation of an occupied dwelling is covered separately in the Relocation Brochure.

Once the State has taken possession of an improvement, the improvement and any fixtures become the property of the State, unless an exception is made in writing at the time of settlement.

WHEN MUST I REMOVE RETAINED ITEMS?

All Right of Way Agreements specify a date by which the owner must remove the retained items. A request for an extension of time to remove retained items must be made by the owner in writing to the Right of Way Program prior to the letting date for consideration. After the letting date, the request must be sent to the Region Engineer for consideration.

When an owner fails to remove retained property by the agreed upon date, the State has the right to dispose of these items in a manner most economical to the State.

WILL THE STATE PAY RELOCATION COSTS?

Any person lawfully occupying property acquired by the State who is displaced as a result of the acquisition of real property for a highway project is eligible for relocation assistance. The DOT will discuss such matters and inform you of your entitlements.

Relocation and your entitlements are explained in greater detail in the Relocation Brochure.

WHAT HAPPENS IF I DO NOT ACCEPT THE STATE'S OFFER?

If you do not accept the State's offer of just compensation, the State may proceed to obtain possession of the property needed through the eminent domain process through a court possession hearing. The amount of just compensation determined by a court appraisal will be deposited with the Clerk of Courts in your county. The amount of the final payment will be determined at a later date. In some cases, the State may proceed directly to the condemnation trial in which case the possession date and compensation will both be established at the trial.

WHAT ABOUT MY LOAN?

The State makes payment directly to the property owner in most cases. If there is a mortgage or lien on the property a partial release is required. The State will secure a partial release from the lending institution. The State is responsible for any service fees. The lending institution may require their name on the payment check along with your name.

WILL I BE REQUIRED TO PAY RECORDING FEES, TRANSFER TAXES, MORTGAGE PREPAYMENT PENALTY COSTS OR REAL PROPERTY TAXES FOR THE RIGHT OF WAY TAKEN?

Expenses incidental to transferring title to the State are normally paid by the State. If any such costs are incurred by the owners, they may submit a claim to the State for reimbursement.

Real property taxes do not need to be paid by the property owner for any month that the State is in legal possession for more than sixteen (16) days (South Dakota Codified Law 10-4-19.1).

MUST I PAY INCOME TAX ON THE SALE OF MY LAND?

The proceeds from the sale of land to the government are generally subject to taxation under Internal Revenue Service (IRS) rules. You should consult the local IRS office, your attorney, or accountant for further information concerning your tax situation.

WHAT ABOUT LAND THAT IS IN CRP?

It is the responsibility of the landowner to inform the local FSA office of right of way and permanent easements that are acquired for public use. This is considered an involuntary loss of land by the participant. The CRP payments should be prorated to eligible participants based on the date the land was acquired for public use. The CRP acreage may be continued on temporary easements under CRP-1 if there is minimal impact on the affected acreage and the vegetative cover is maintained.

Your FSA office will require you to bring documentation such as the executed right of way agreement to prove the acres are being taken out of CRP through a public use acquisition.

WHEN CAN I EXPECT PAYMENT?

Generally, payment for right of way may be expected within thirty to forty-five days following execution of the required documents for right-of-way acquisition. Payments involving titles encumbered by mortgages, judgments, liens, or other title issues could take somewhat longer.

WHERE CAN I GET ADDITIONAL INFORMATION?

The Right of Way representative who contacted you can usually provide, or obtain, any information requested.

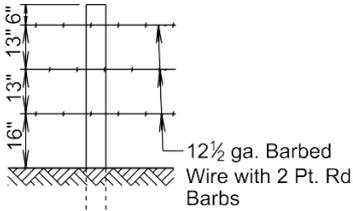
Additional information may also be obtained by contacting the Right of Way Program, South Dakota Department of Transportation, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Telephone Number (605)773-3746.

WHAT ABOUT UTILITIES?

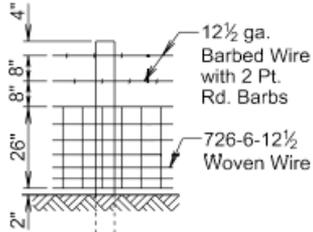
As part of the construction project, there are underground and overhead public or private utilities which will be affected and may need to be relocated. Through a separate contract with Public Utilities such as power, telephone, rural water, and cable television. The state has the utility company adjust its location to an area outside of the road right of way or the utility may relocate within the right of way by permit. The Public Utility Company that relocates outside of the new right of way line will secure its own easement from the landowner.

Privately owned utility such as electrical lines to barns, signs, or wells will be valued by an appraiser or through negotiations, with estimates from professionals familiar with the specific utility type. With both types of utility relocation, private or public, the items such as trees, fences, or lawns will generally be moved/disturbed prior to construction of the roadway. This may require the utility company or the landowner if they have decided to salvage any improvement within the new right of way to be removed.

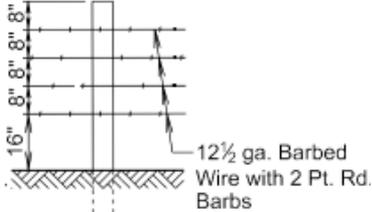
PERMANENT FENCE DETAILS



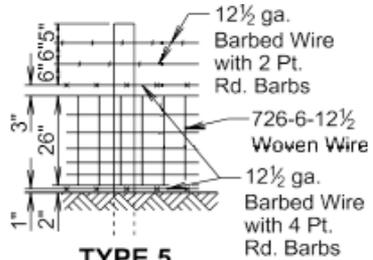
TYPE 1
(3 Barbed Wires)



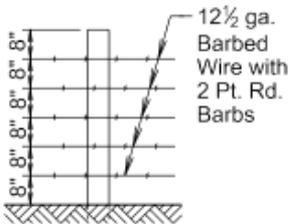
TYPE 4
(26" Woven Wire
with 2 Barbed Wires)



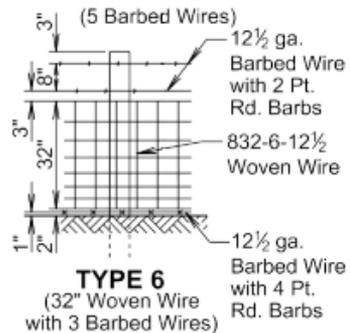
TYPE 2
(4 Barbed Wires)



TYPE 5
(26" Woven Wire
with 4 Barbed Wires)

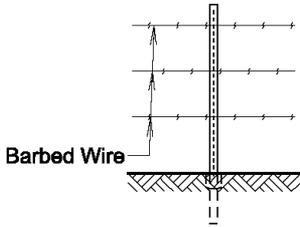


TYPE 3
(5 Barbed Wires)

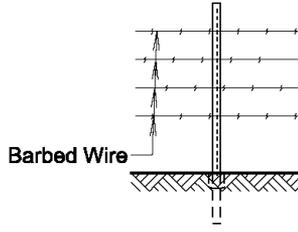


TYPE 6
(32" Woven Wire
with 3 Barbed Wires)

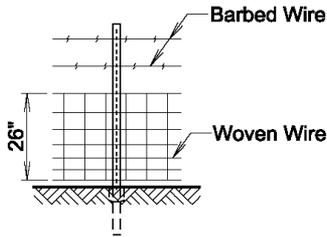
TEMPORARY FENCE DETAILS



Type 1/1A
(3 Barbed Wires)



Type 2
(4 Barbed Wires)



Type 3
(26" Woven Wire
with 2 Barbed Wires)

DEFINITIONS OF IMPORTANT TERMS USED IN THIS BROCHURE

Agency

An agency referenced in this brochure is typically the South Dakota Department of Transportation.

Acquisition

Acquisition is the process of acquiring real property (real estate) or some interest therein.

Appraisal

An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Condemnation

Condemnation is the legal process of acquiring private property for public use or purpose through the government unit's power of eminent domain. Condemnation is usually not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed. A government unit then goes to court to acquire the needed property.

DOT

South Dakota Department of Transportation

Easement

In general, an easement is the right of one person to use all or part of the property of another person for some specific purpose. Easements can be permanent or temporary (i.e., limited to a stated period of time). The term may be used to describe either the right itself or the document conferring the right. Examples are: permanent easement for utilities, permanent easement for perpetual maintenance of drainage structures, and temporary easement to allow reconstruction of a driveway during construction.

Eminent Domain

Eminent domain is the right of government to acquire private property for public use. In the United States, just compensation must be paid for private property acquired for projects.

Interest

An interest is a right, title, or legal share in something. People who share in the ownership of real property have an interest in the property.

Just Compensation

Just compensation (as defined by the State Supreme Court) is the price a government unit must pay to acquire real property. The courts have generally defined just compensation as being the appraised fair market value of the property being acquired and the damages to the remainder of the property. An agency official must make the estimate of just compensation to be offered to you for the property needed. That amount may not be less than the amount established in the approved appraisal report as the fair market value for your property. If you and the agency cannot agree on the amount of just compensation to be paid for the property needed, and it becomes necessary for the government unit to use the condemnation process, the amount determined by the court will be the just compensation for your property.

Lien

A lien is a charge against a property in which the property is the security for payment of a debt. A mortgage is a lien. So are taxes. Customarily, liens must be paid in full when the property is sold.

Negotiation

Negotiation is the process used by a government unit to reach an amicable agreement with a property owner for the acquisition of needed property. An offer is made for the purchase of property in person, or by mail, and the offer is discussed with the owner.

Person

A person is an individual, partnership, corporation, or association.

Personal Property

In general, personal property is property that can be moved. It is not permanently attached to, or a part of, the real property. Personal property is not to be included and valued in the appraisal of real property.

Program or Project

A program or project is any activity or series of activities undertaken by an agency where Federal financial assistance is used in any phase of the activity.

Real Property

Land, everything that is permanently attached to the land, and all of the rights of ownership, including the right to possess, sell, lease, and enjoy the land.

Waiver Valuation

The term waiver valuation means an administrative process for estimating fair market value for relatively low-value, non-complex acquisitions. A waiver valuation is prepared in lieu of an appraisal.

Right of Entry

A right of entry is an agreement in which the landowner grants possession of right of way and easements to the state with monetary settlement occurring at a later date.