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Top Tips for Handling Large Acquisition Projects

In connection with large public works projects, negotiating voluntary acquisitions with each landowner is generally the most efficient and preferable method to secure the property rights necessary to complete the project. However, although most property interests are acquired voluntarily, initiating condemnation proceedings against select landowners is oftentimes necessary to ensure the timely completion of many public utility projects. To that end, below are some top tips for handling large acquisition projects so as to minimize the need for condemnation:

1. Establish Relationships and Open Communication with Affected Community

- Notify landowners as soon as possible about the upcoming project.
- Provide landowners with a direct line of communication to the appropriate right-of-way agents to discuss any questions or concerns as they arise.
- Educate right-of-way agents about the acquisition process so they can effectively communicate with each landowner.

2. Confirm Property Rights Necessary to Acquire

- Identify all parcels affected by the project.
- Confirm property rights necessary to acquire on each parcel – *e.g.,* permanent easement, temporary construction easement, access easement, aerial easement, fee simple interest.
- Confirm ownership/title of each parcel.
- Note whether any governmental entities must give approval before condemnation is commenced.
- Prepare legal descriptions and surveyed exhibits.

3. Determine Fair Market Value

- Prepare a market study to calculate the fair market value of the interests necessary to be acquired.
- Determine whether appraisals are needed.
- Understand project budget allocated to property acquisition.
- Calculate offers for each parcel.

4. Keep an Updated Landowner Spreadsheet

- Prepare a spreadsheet to track the status of each acquisition.
- Suggested items to track include: landowner contact information; parcel identification; easement estate(s); market study/appraisal amount; dates of communication with the landowner; status of negotiations; initial offer; notice of intent; final offer; filing and serving petition, motion for immediate possession, lis pendens, and statement of map; date of immediate possession hearing.
- Keep spreadsheet up-to-date on a weekly basis.

5. Determine Construction Timeline

- Confirm overall construction start date and approximate end date / in-service date.
- Determine the approximate time frame expected to be working on each acquired parcel.
- Confirm whether any extraordinary work is necessary on any particular parcel – *e.g.,* extreme grading or restoration.
- Prepare condemnation timeline to ensure property interests are acquired by construction start date, particularly noting dates to send notices of intent to acquire; send final offer letters; and file petitions and motions for immediate possession.

6. Pursue Diligent Negotiations with Landowners

- Continuously communicate with each landowner to negotiate the acquisition of the necessary property rights.
- Confirm which easement terms are negotiable versus those that are not.
- Ensure each landowner knows the date construction will begin on their property.

- Timely send each property owner an initial offer letter, a notice of intent to acquire, and a final offer letter based on the construction schedule.
- If negotiations are proving unsuccessful, inform the landowner of the date on which a petition in condemnation will be filed.

7. File Condemnation Action

- Pass board resolution of necessity relating to the property interests necessary to condemn.
- File petition in condemnation and motion for immediate possession with sufficient time to obtain possession prior to the construction start date.

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