

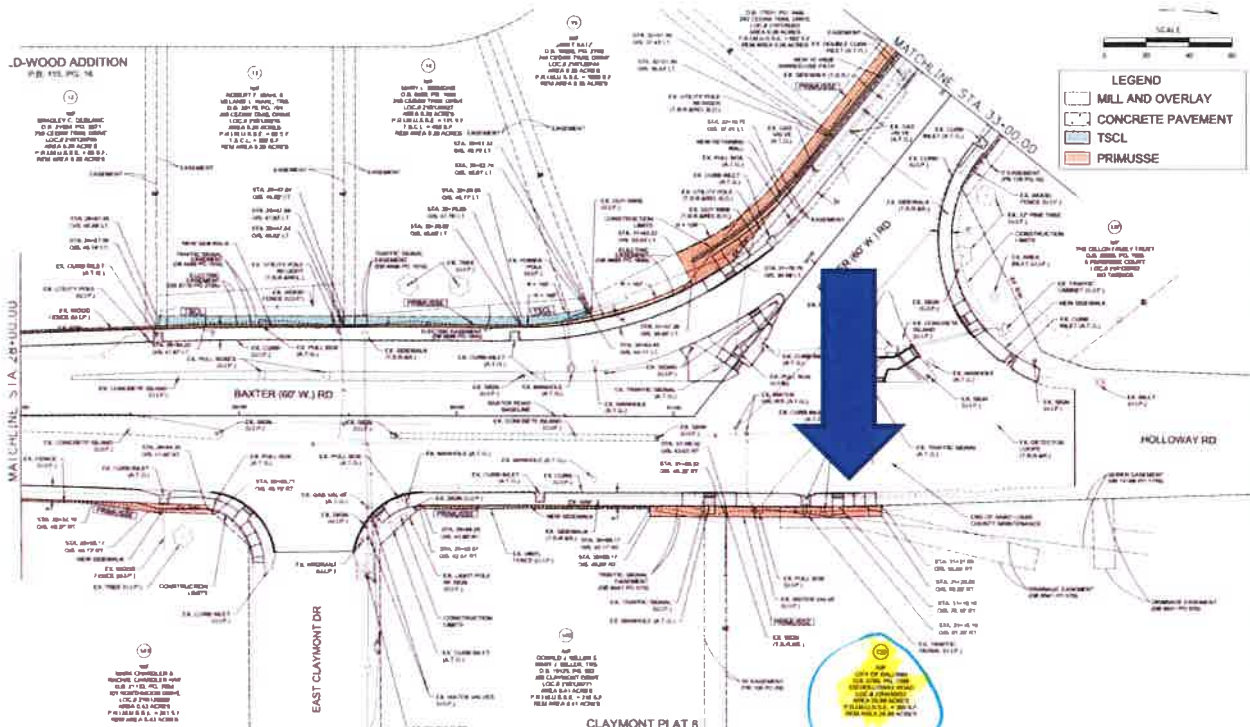
## Staff Report

**Subject:** Acquisition of Right of Way-Baxter Road Resurfacing

**Department/Program:** Public Works/ Engineering

**Recommendation:** Staff recommends donating 360 square feet of Permanent Roadway Improvement Maintenance Utility Sewer and Sidewalk easement.

**Explanation:** St. Louis County has submitted plans to mill and overlay Baxter road with some improvements from Clayton road to Manchester road. They will require a small portion of an easement on Holloway adjacent to City owned property for this project.



**Submitted By:** Jim Link

**Date:** 03-15-2021

Sam Page  
County Executive

Saint Louis  
**COUNTY**  
**TRANSPORTATION**  
**PUBLIC WORKS**

Stephanie Leon Streeter, P.E.  
Acting Director

Joseph W. Kulessa, P.E.  
Acting Deputy Director

January 19, 2021

Mr. Eric Sterman  
City Administrator  
City of Ballwin  
1 Government Center  
Ballwin, Missouri 63011

RE: **Acquisition of Right-of-Way**  
Baxter Road (South) ARS Resurfacing  
St. Louis County Project No. AR-1555  
Federal Project No. STP-5548 (606)  
Parcel No. 139  
Address of Property Affected:  
333 Holloway Road

Dear Mr. Sterman:

St. Louis County Department of Transportation and Public Works is pleased to inform you of a road improvement project planned for your area. Engineering drawings which indicate the extent to which your property will be affected are enclosed.

We do want to inform you that you have the right to receive compensation for the land in question, as determined by an appraisal for rights taken from your property. A *Right-of-Way Acquisition* leaflet is furnished with this letter. The purpose of this leaflet is to explain the process which must be followed to acquire the necessary property rights.

Due to the benefits to be derived from the project, we are hopeful we can reach an agreement with you to donate 360 square feet of Permanent Roadway Improvement Maintenance Utility Sewer and Sidewalk Easement as required for the road improvement project. If you are agreeable to the exchange as proposed, we would appreciate you acknowledging this agreement and waiver of compensation by signing below.

We look forward to the continuation of our road improvement program and are grateful for the opportunity to serve you.

Should you have further questions, please feel free to contact John Eddington, Right-of- Way Manager at (314) 615-8589.

Sincerely,



Stephanie Leon Streeter, P.E.  
Acting Director

SLS:JJE:mtb

Enclosures: Engineering Drawings  
*Right-of-Way Acquisition* leaflet

Accepted by Property Owner(s):

Eric Sterman                      Date  
City Administrator, City of Ballwin

Baxter Road (South) ARS Resurfacing  
St. Louis County Project No. AR-1555  
Federal Project No. STP-5548 (608)  
Parcel No. 139

**PERMANENT ROADWAY IMPROVEMENT,  
MAINTENANCE, UTILITY, SEWER AND SIDEWALK EASEMENT**

**THIS ACQUISITION IS AUTHORIZED BY ST. LOUIS COUNTY ORDINANCE NO. 27,983,2021  
Dated, January 21, 2021**

THIS INDENTURE made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2021, between the City of Ballwin, of the County of St. Louis, State of Missouri, Grantor and **ST. LOUIS COUNTY, MISSOURI**, 41 South Central Avenue, Clayton, Missouri 63105, Grantee.

WITNESSETH, that the said Grantor, for and in consideration of the sum of one dollar and other valuable considerations, paid by the said Grantee, the receipt of which is hereby acknowledged, does by these presents, grant unto the said Grantee a permanent easement to improve, construct, repair and maintain roadway improvements, utilities, sewers and sidewalks in upon the following described premises situated in the County of St. Louis and State of Missouri, and more particularly described as follows:

**SEE EXHIBIT "A" PERMANENT ROADWAY IMPROVEMENT, MAINTENANCE, UTILITY,  
SEWER AND SIDEWALK EASEMENT DESCRIPTION – PAGE 3**

TO HAVE AND TO HOLD said easement unto ST. LOUIS COUNTY, MISSOURI, and to its assigns and successors forever.

The said Grantor hereby covenanting that they and their successors, executors, and administrators, shall and will Warrant and Defend the title to the premises unto the said Grantee, and to its successors and assigns forever against the lawful claims of all person whomsoever.

IN WITNESS WHEREOF, the said City of Ballwin has caused these presents to be signed by its City Administrator this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

By: \_\_\_\_\_

Eric Sterman, City Administrator

Baxter Road (South) ARS Resurfacing  
St. Louis County Project No. AR-1555  
Federal Project No. STP-5548 (608)  
Parcel No. 139

State of Missouri     )  
                                  ) ss.  
County of St. Louis    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me appeared Eric Sterman, to me personally known, who being by me duly sworn, did say he is City Administrator of City of Ballwin by authority of its City Council, and said City Manager acknowledged said instrument to be the free act and deed of said Municipality.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public

My term expires: \_\_\_\_\_

Baxter Road (South) ARS Resurfacing  
St. Louis County Project No. AR-1555  
Federal Project No. STP-5548 (608)  
Parcel No. 139

Exhibit "A"

October 19, 2020

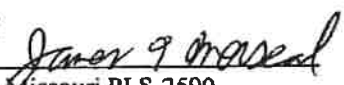
PROJECT NAME: Baxter Road  
PROJECT NUMBER: AR-1555  
PARCEL NUMBER: 139  
OWNER: City of Ballwin

**PERMANENT ROADWAY IMPROVEMENT MAINTENANCE  
UTILITY SEWER SIDEWALK EASEMENT**

A tract of land being part of property conveyed to the City of Ballwin by instrument recorded in Deed Book 6706 Page 1598 and being situated in Section 26, Township 45 North, Range 4 East, Saint Louis County, Missouri and being more particularly described as follows:

Beginning at the intersection of the West line of Holloway Road as widened by instrument recorded in Deed Book 8541 Page 570 of the Saint Louis County Records with the North line of property conveyed to the City of Ballwin by instrument recorded in Deed Book 6706 Page 1598, being also the South line of Lot 537 of "Claymont Plat 8" according to the plat thereof recorded in Plat Book 108 Page 69; thence continuing along said West line, South 00 degrees 31 minutes 33 seconds West 52.26 feet to a point; thence South 01 degree 20 minutes 35 seconds East 19.64 feet to a point; thence departing said West line, South 88 degrees 39 minutes 25 seconds West 4.99 feet to a point; thence North 01 degree 27 minutes 05 seconds West 19.77 feet to a point; thence North 00 degrees 33 minutes 22 seconds East 52.29 feet to a point on the aforesaid North line of property conveyed to the City of Ballwin, being also the aforesaid South line of Lot 537; thence continuing along said North line, South 89 degrees 27 minutes 59 seconds East 5.01 feet to the point of beginning according to calculations based on plans prepared for Saint Louis County Project No. AR-1555 and containing 360 square feet more or less.

This property description does not constitute a property boundary survey, but has been written based on a property boundary survey prepared by the St. Louis County Department of Transportation.

By:   
James T. Nussel Missouri PLS-2590  
St. Louis County Department of Transportation  
1050 N. Lindbergh, St. Louis, MO 63132  
(314) 615-1175



***RIGHT-OF-WAY ACQUISITION***

**When a Saint Louis  
County Road Project  
Comes Your Way**

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*Deanna Venker, P.E., Director*

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## **AN EXPLANATION**

### **So that you will know...**

The improvements or relocation of roads usually involves the acquisition of private property necessary for the construction of the roadway facilities.

We must have proper safeguards both for the road users for who the road improvements are made and for the property owners from whom the necessary right-of-way must be acquired. St. Louis County has developed policies and procedures designed to accomplish these two objectives. We want you to be familiar with these policies and procedures.

For this reason, we have prepared this informational brochure. Though it is brief, we hope it will help you become more familiar with our practices—and hence, better equipped to know what to expect during your dealings with St. Louis County Department of Transportation and Public Works.

We sincerely hope the information contained in this brochure will give you a solid basis of fact in your dealings with the Department of Transportation and Public Works - a foundation on which mutual confidence and cooperation can grow. We sincerely hope, also, that at the conclusion of our transaction you will be a firm friend and supporter of St. Louis County Government.

The Project Development Division land acquisition procedure can be separated into three phases. They are:

1. Valuation and Appraisal
2. Negotiations
3. Settlements and Closings, or if necessary  
Acquisition through Eminent Domain

Each phase will be discussed separately in the following paragraphs:

**VALUATION**  
**AND**  
**APPRAISAL**

**What's it worth?**

This is the period in which a study is made to determine the amount of money that you are entitled to receive in payment for the property which is to be acquired from you.

Valuation studies of this type include appraisals which are made by individuals, known as "appraisers". The appraisers will make every effort to extend to you or your designated representative, an invitation to accompany them when inspecting your property. Appraisers will work with and welcome assistance from you or your designated representative during the appraisal process.

The appraisals will be completed by well-qualified, independent appraisers, or by well-trained and equally qualified staff appraisers.



**"Your cooperation and  
assistance will be  
very important."**

Staff appraisers are full-time employees of the Project Development Division— Right-of-Way Section. Independent appraisers are employed by contract to work on specific properties or projects.

In every case, the completed appraisals will be reviewed by a qualified person and just compensation approved by a department official.

If the entire parcel is to be acquired, the appraiser must establish its current fair market value. The current fair market value is the amount of money from a willing and informed seller to a buyer with the same qualifications.

If only a part of your property is needed for the roadway improvement, the appraiser must establish the value of your entire property before it is in any way changed by the proposed roadway improvement. This is commonly referred to as the "before value". They must also determine what the value of your entire remaining property will be, assuming the roadway construction has been completed, considering the physical changes and any benefits or damages that might be created. This is commonly referred to as the "after value". You will be offered the difference between the "before" and "after" value of your property.

Losses in value for which you can be paid are those caused by the loss of land, buildings, improvements and property rights.

The amount of money to be paid to a property owner is called "just compensation".

Your cooperation and assistance, as a property owner, will be important in the appraisal process. We will appreciate any part you take in the valuation study so that in the end, the amount of just compensation to which you are entitled will be the results of the combined efforts of both yourself and the Project

Development Division, Right-of-Way Section.

The Department of Transportation and Public Works address is listed in the back of this brochure for your convenience in the event you have additional information that you feel will assist us in arriving at a fair appraisal of your property.

Before a final decision is made as to the amount that will be offered to you, a review of all facts involved will be made by representatives of the Project Development Division, Right-of-Way Section.

Out-of-state owners are encouraged to forward additional information to us at any time during the valuation phase.

## **NEGOTIATIONS**

### **Based on facts...**

A Project Development Division, Right-of-Way Representative will contact you when the amount of just compensation that you are entitled to receive in payment for the right-of-way acquired from you has been determined.

The Right-of-Way Representative will advise you of the Division's acquisition procedures and explain in detail how the design and construction features of the new improvement will affect your property. You will be given information to know concerning your transaction with the Division.

The amount of money offered to you will be confirmed in writing and will be the amount of just compensation that facts will support as determined through the valuation and appraisal procedures. It has been concluded through experience in negotiations that owners cannot all be treated equally under a flexible procedure where offers can be increased or decreased through a trading process. In justice to all, offers must be based on proven property values and not on an owner's skilled ability in negotiating and trading.

The fact that the Project Development Division does not attempt to purchase right-of-way below the fair market value as determined through appraisal procedures is assurance that the offer to you for your property will be the just compensation that the Project Development Division can pay regardless of whether you are experienced or inexperienced in real estate transactions.

If it is discovered that additional facts or items of value which will justify an adjustment in the amount of just compensation were not considered in the appraisal of your property, such adjustments will be made and a revised offer will be conveyed to you.

When improvements are located within the right-of-way, the owner will be given an opportunity to retain and remove them for salvage value, which will be deducted from the offer.

Relocation assistance will be provided during negotiations to persons occupying a business or dwelling place and for removals of private property. A brochure will be provided to familiarize you with this program.

The Right-of-Way Representative will discuss the transaction for your property only with you or with your properly authorized attorney or representative. Normally, prior to negotiations with your authorized representative, we must have a letter from either you or your authorized representative advising that he or she has been authorized to negotiate in your behalf. We do not normally negotiate with real estate firms or other parties who do not have a direct interest in your property.

The Right-of-Way Representative will take care of the details and paperwork concerning the settlement. It is desired that you receive just compensation for your property that is fair to you and the tax paying citizens of St. Louis County.

## **SETTLEMENTS AND CLOSINGS**

### **Of interest to you...**

1. Your signed deed and supporting documents (mortgage releases, leases, etc.) - if any - will be retained by the Project Development Division, Right-of-Way Section or by an Escrow Agent until distribution of the money is made to the party or parties entitled to receive payment, and will then be recorded in the Office of the Recorder of Deeds. Normal closing costs and recording fees are paid by the Project Development Division, Right-of-Way Section.
2. You can expect payment approximately 90 days after the executed deed of conveyance and all documents required for clear title are received in the Project Development Division, Right-of-Way Section or Escrow Agent. Total payment for real property will be made prior to the required date of possession.
3. Occupants of improvements located on land acquired for the highway will be given written notice to vacate a minimum of 90 days in advance of the date required to surrender possession of the property to the Project Development Division, Right-of-Way Section.
4. Owners will be reimbursed for a pro rata portion of the county real estate taxes paid for the current taxable year on property purchased by the Division. The pro rata portion of taxes will cover the full number of months remaining in the calendar year after payment is received for the real property. Claims must be made within 6 months after the City or County tax delinquent date. Delinquent tax payments are not reimbursable. Reimbursement claim forms can be obtained from the Project Development Division, Right-of-Way Section.
5. Owners will be reimbursed for actual penalty costs for prepayment of a preexisting mortgage entered into in good faith and filed of record prior to the scheduled date of the design public hearing for the project.

To be eligible for this payment, the property must be taken in its entirety or the taking must be of such magnitude that the remainder will not provide collateral for the mortgage and/or the mortgagor must require prepayment of the mortgage. Prepayment mortgage penalty claims forms can be obtained from the Project Development Division, Right-of-Way Section.

6. Owners have the right to request review of the pro rata portion of real estate taxes as determined by the Project Development Division, Right-of-Way Section. They also may request review of any penalty cost for prepayment of pre-existing recorded mortgage as determined by the Division. If after this review and discussion you are still not in agreement, you have the right for a formal appeal. This appeal must be filed within 60 days after you have been notified in writing of rejection by the Project Development Division, Right-of-Way Section following its review.

In the event relief requested in your formal appeal to the Project Development Division, Right-of-Way Section is not granted, you still have the right to seek judicial review.

## **EMINENT DOMAIN**

### **How it works...**

If it is not possible for the owner and Project Development Division Right-of-Way representative to agree on the amount of just compensation to be paid, it will be necessary to follow the procedure provided under the law of eminent domain to establish the price to be paid.

If this course of action is take, the following procedure is used:

St. Louis County will file in Circuit Court a condemnation petition setting out the land and/or rights to be acquired and naming all parties who own an interest in it.

The Circuit Judge will set a date for hearing the petition, after which due notice of the date of the hearing will be given to the landowners affected through a "summons". If, on the date set, the Court finds the petition to be proper, the Judge will appoint three disinterested persons (designated as Condemnation Commissioners) to view and appraise the property and determine the amount of just compensation the owner is entitled to receive.

The Court-appointed Commissioners, after considering the facts, make their decision and file their report with the Clerk of the Court. After the Commissioners make their decision concerning just compensation and file their report in Court, St. Louis County must deposit the amount found by them with the Circuit Clerk before taking possession of the property.

Either side can, within 30 days from receipt of notice of filing of Commissioners' report, file exceptions to the Commissioners' Award if they are not satisfied and ask that the matter be tried before a jury for final determination.

If exceptions are not filed by either the owner or St. Louis County, the amount determined by the Court-appointed Commissioners becomes final.

The landowner can withdraw the Court deposit at any time, regardless of whether or not such exceptions are filed; however, if

exceptions are filed and jury award is for a smaller amount, the owner must refund the difference to St. Louis County together with interest on the refunded amount. By the same token, if the jury award is higher, the County must pay the difference, plus interest.

The above is set out not as advice but to inform you of the alternates available should you elect not to accept the offer made for your property.

For specific information or advice concerning condemnation, we suggest that you confer with an attorney of your choice.



## **IN CONCLUSION**

### **That's our wish...**

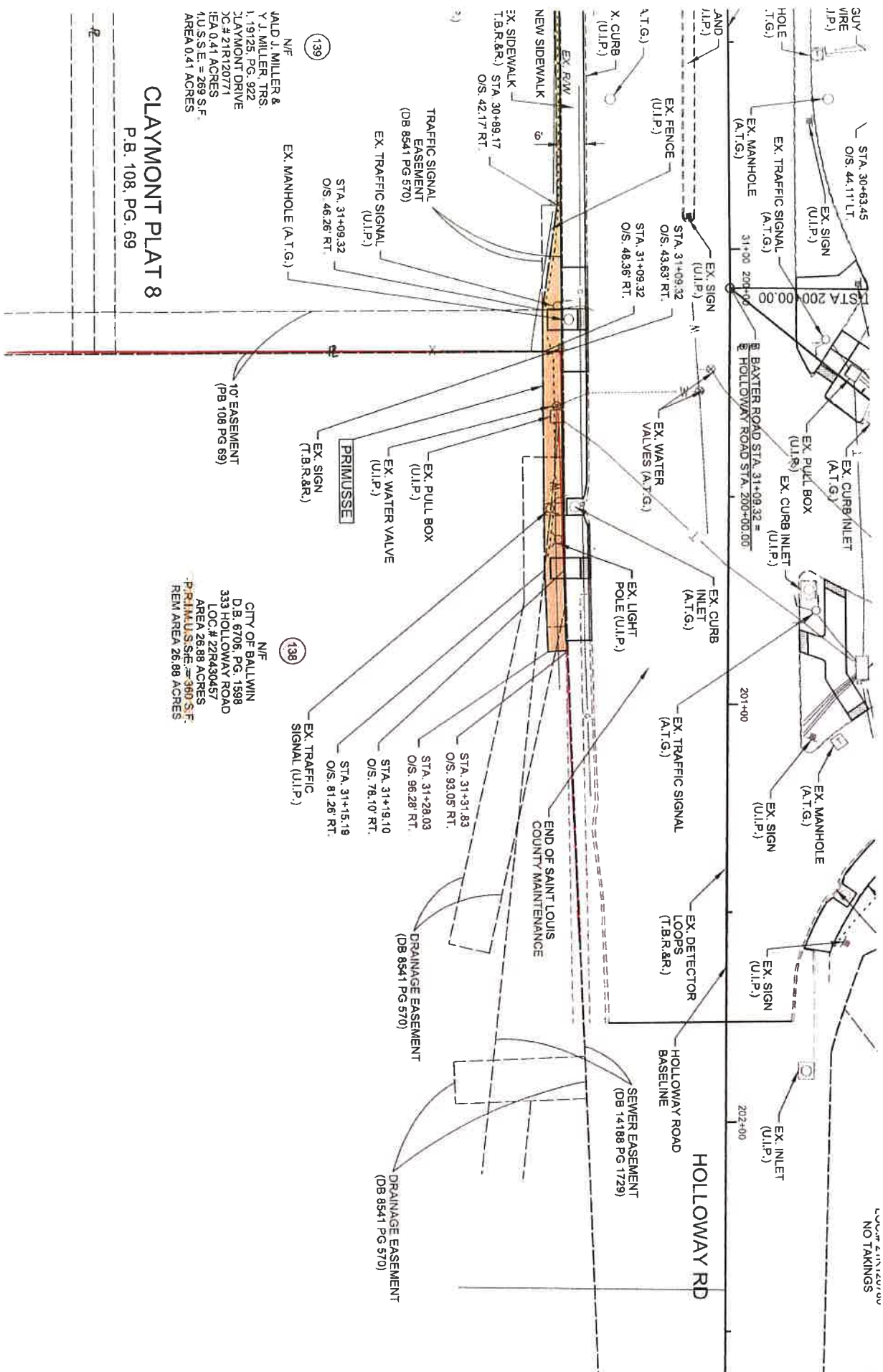
In this brochure we cannot answer every question concerning road land acquisition procedure. However, we hope the information here will help you to understand the general procedure which we must follow in acquiring real estate.

We sincerely hope that your coming transaction with St. Louis County will be a pleasant experience for both you and the Project Development Division, Right-of-Way Section personnel who you will meet. We believe that you will find them to be courteous and thoughtful and aware of their obligations to you as an individual and to the public in general.

**WHERE TO WRITE**  
**OR CALL**

St. Louis County Department of Transportation and Public Works  
Deanna Venker, P.E., Director  
1050 N. Lindbergh Boulevard  
St. Louis, Missouri 63132  
Telephone No. (314) 615-8501





NO TAKINGS

PREPARED BY:

DA

DE  
DR