

FS Agreement No. 21-MU-11020000-032
BLM-MOU-CO-2022-001
CDOT Agreement No. 351001751
CDOT Routing No. 21-HTD-XE-00032

MEMORANDUM OF UNDERSTANDING
Between
THE BUREAU OF LAND MANAGEMENT,
THE COLORADO DEPARTMENT OF TRANSPORTATION,
THE FEDERAL HIGHWAY ADMINISTRATION
And
THE USDA, FOREST SERVICE ROCKY MOUNTAIN REGION

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Bureau of Land Management; the Colorado Department of Transportation; the Federal Highway Administration; and the United States Department of Agriculture (USDA), Forest Service, Rocky Mountain Region; hereinafter referred to as “BLM, CDOT, FHWA, and U.S. Forest Service.”

BACKGROUND. This MOU supersedes and replaces the MOU of June 30, 2016 (CDOT Agreement No. SRM351001288, USDA FS Number 16-MU-11020000-029, and BLM MOU Number BLM-MOU-CO-2016-005) between BLM, CDOT, FHWA, and U.S. Forest Service. This MOU does not supersede or replace the requirements of any national agreements, easements, or permits between the affected parties. This MOU does not alter or supersede the authorities and responsibilities of any of the Agencies on any matter under their respective jurisdictions.

TITLE. Memorandum of Understanding Related to Activities Affecting the State Transportation System, National Forest System Lands, and Bureau of Land Management National System of Public Lands in the State of Colorado

I. PURPOSE: The purpose of this MOU is to establish procedures for coordinating activities affecting the state transportation system and lands administered by U.S. Forest Service/BLM within the State of Colorado.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

For the FHWA and CDOT, effectiveness is manifested by transportation projects that are planned, designed, constructed and maintained with appropriate engineering standards and safety considerations, in a timely and cost-efficient manner.

For U.S. Forest Service and BLM, effectiveness is measured by transportation projects that are planned, designed, constructed and maintained with appropriate consideration of land management objectives and with emphasis on conservation and enhancement of Federal lands and resources.

This MOU seeks to enhance interagency coordination, cooperation, and the mutual understanding of transportation projects on Federal lands and resources. It documents mutual agreement regarding specific “Implementing Procedures” to be followed as a means to achieve these purposes (See **Attachment A**, Implementing Procedures).

In consideration of the above premises, the parties agree to the following **Roles and Responsibilities**:

III. FHWA SHALL:

- A. Administer Federal-aid highway funding and function as the lead agency for implementing the National Environmental Policy Act of 1969 (NEPA) as it relates to Federal-aid transportation projects (40 CFR 1500–1508, Title 23 USC). Federal-aid highways (Chapter One, Title 23 USC) include the Interstate System, the National Highway System, and selected state highways.
- B. Facilitate the acquisition (through the Federal Land Appropriation process) of highway easement deeds for the use of U.S. Forest Service National Forest System (NFS) land and BLM National System of Public Lands (NSPL) for transportation purposes.

IV. CDOT SHALL:

Be responsible for the planning, location, design, construction, operation and maintenance, and perpetuation of a safe and efficient transportation system needed for the benefit of the public in accordance with Title 23, USC. CDOT is also responsible for ensuring that social, economic, and environmental effects are considered in the planning, development, and maintenance of state transportation projects and that the projects are in the best overall interest of the public.

V. THE U.S. FOREST SERVICE SHALL:

Function as a Cooperating Agency for Federal-aid highway projects. It is responsible for the protection and multiple use management of NFS lands and resources for the benefit of the people of the United States. This responsibility extends to the development of a public lands transportation system both within and providing direct access to NFS lands.

VI. THE BLM SHALL:

Function as a Cooperating Agency for Federal-aid highway projects. It is responsible for the protection and multiple use management of public lands and interests for the benefit of the people of the United States. This responsibility extends to the development of a public lands transportation system both within and providing direct access to BLM-managed lands.

VII. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

Since many public highways traverse NFS lands and NSPL, CDOT will need authorization to occupy such lands for rights-of-way (ROW), waste areas, material sources, highway construction, mitigation, and operations and maintenance actions.

The agencies recognize that there are a number of complex issues regarding transportation, many of which are interrelated. The agencies recognize that studies and investigations should be coordinated to ensure that sound planning science is applied and that duplication of work

activities does not occur, that taxpayer funds are used wisely and efficiently, and that the full body of information is available to the agencies and the public. In recognition of the responsibilities, interests, and limitations set forth above and the mutual benefits of established procedures to facilitate agreement on specific transportation matters on or adjacent to NFS/NSPL; CDOT, FHWA, U.S. Forest Service, and BLM mutually agree to abide by the procedures outlined in this MOU. Authority to enter into this MOU is provided by:

1. The Federal Land Policy and Management Act of 1976, 43 USC 1737
2. The Act of August 27, 1958, As amended 23 USC Sections 107(d), 204(f) and 317
3. Federal Land Policy and Management Act of 1976; 43 USC § 1701, et seq.

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

FHWA ROW Program Manager Contact	FHWA Env. Program Manager Contact
Name: Jeff Bellen ROW Manager Address: 12300 West Dakota Ave. City, State, Zip: Lakewood, CO 80228 Telephone: 720-963-3438 FAX: 720-963-3001 Email: jeff.bellen@dot.gov	Name: Stephanie Gibson Environmental Manager Address: 12300 West Dakota Ave. City, State, Zip: Lakewood, CO 80228 Telephone: 720-255-7990 FAX: 720-963-3001 Email: stephanie.gibson@dot.gov

CDOT ROW Program Manager Contact	CDOT Env. Program Manager Contact
Name: Brian Cesarotti HQ Right of Way, Federal Land Transfers Address: 2829 W. Howard Place, City, State, Zip: Denver, CO 80204 Telephone: 303-512-4930 FAX: 303-757-9868 Email: brian.cesarotti@state.co.us	Name: Jane Hann Environmental Programs Branch Manager Address: 2829 W. Howard Place, City, State, Zip: Denver, CO 80204 Telephone: 303-757-9630 FAX: 303-757-9974 Email: jane.hann@state.co.us

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Miles Barkhurst Regional Transportation Engineer Address: 1617 Cole Blvd Bldg 17 City, State, Zip: Lakewood, CO 80401 Telephone: 303-275-5181 FAX: 303-275-5170 Email: miles.barkhurst@fs.fed.us	Name: Lisa Street Grants Management Specialist Address: 1617 Cole Blvd Bldg 17 City, State, Zip: Lakewood, CO 80401 Telephone: 303-275-5228 FAX: 303-275-5453 Email: lisa.street@usda.gov

BLM Manager Contact
Name: Jennifer Jardine BLM CO State Office, Senior Realty Specialist Address: 161 Burnett Drive, Unit #4 City, State, Zip: Durango, CO 81301 Telephone: 970-880-0338cell/970-385-1224wk FAX: N/A Email: jjardine@blm.gov

- B. NOTICES. Any communications affecting the operations covered by this agreement given by U.S. Forest Service, BLM, CDOT, or FHWA is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To BLM, CDOT, or FHWA, at BLM's, CDOT's, or FHWA's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision or on the effective date of the notice, whichever is later.

- C. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts U.S. Forest Service, BLM, CDOT, or FHWA from participating in similar activities with other public or private agencies, organizations, and individuals.
- D. ENDORSEMENT. Any of BLM's, CDOT's, or FHWA's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of BLM, CDOT, or FHWA's products or activities.
- E. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of

appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- F. USE OF U.S. FOREST SERVICE INSIGNIA. In order for BLM, CDOT, or FHWA to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted, and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- G. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- H. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information Act regulations (5 USC 552).
- I. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- J. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. CDOT and FHWA are encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

CDOT and FHWA may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. FHWA and CDOT are required to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to The U.S. Forest Service's Office of Communications as far in advance of release as possible.

- K. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. CDOT and FHWA shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

- L. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. CDOT and FHWA shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material must, at a minimum, include the following statement, in print size no smaller than the text:

“This institution is an equal opportunity provider.”

- M. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- N. DEBARMENT AND SUSPENSION. BLM, CDOT, or FHWA shall immediately inform U.S. Forest Service if they or any of their non-federal contractor principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should BLM, CDOT, or FHWA or any of their non-federal contractor principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- O. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made in writing, at least 30 days prior to implementation of the requested change.
- P. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective for five years, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized signatory officials.
- Q. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

VIII. RECORDS MANAGEMENT

Any records or documents generated by BLM as a result of this MOU shall become part of the official BLM record maintained in accordance with the BLM record management policies. For any such BLM records, BLM will determine the suitability for public review or release under FOIA, the Privacy Act, and in accordance with Department of Interior and BLM regulations.

DocuSigned by:

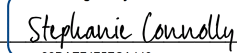
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SHOSHANA M. LEW, Executive Director Date
Colorado Department of Transportation

DocuSigned by:

9F5C87D6978B4E9... 2/9/2022

JOHN M. CATER, Division Administrator Date
Federal Highway Administration, Colorado Division

DocuSigned by:

38DAE7475FCA449... 3/28/2022

JAMIE E. CONNELL, Colorado State Director Date
Bureau of Land Management

See attached

FRANK R. BEUM, Regional Forester Date
U.S. Forest Service, Rocky Mountain Region

VIII. RECORDS MANAGEMENT

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SHOSHANA M. LEW, Executive Director
Colorado Department of Transportation

Date

JOHN M. CATER, Division Administrator
Federal Highway Administration, Colorado Division

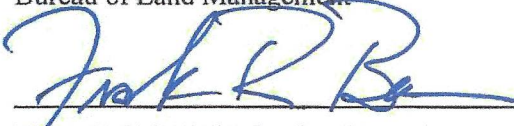
Date

JAMIE E. CONNELL, Colorado State Director
Bureau of Land Management

Date

FRANK R. BEUM, Regional Forester
U.S. Forest Service, Rocky Mountain Region

Date



4/14/2022

The authority and format of this instrument have been reviewed and approved for signature.

RICHARD MAESTAS Digitally signed by RICHARD MAESTAS
Date: 2022.04.06 14:28:44 -06'00'

RICK MAESTAS
U.S. Forest Service Grants & Agreements Specialist

Date

In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Office of the State Controller, Controller Delegate
Effective Date: _____

U.S. Forest Service Mandatory Office of Management and Budget Statement

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The US Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 {TDD} or (866) 377- 8642 (relay voice). USDA is an equal opportunity provider and employer.

The authority and format of this instrument have been reviewed and approved for signature.

See attached

LISA STREET
U.S. Forest Service Grants & Agreements Specialist

Date

In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

DocuSigned by:
By: Ken Fiet
Office of the State Controller, Controller Delegate
Effective Date: 3/28/2022

See attached U.S. Forest Service Mandatory Office of Management and Budget Statement

Burden Statement

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Attachment A Implementing procedures

For Colorado Department of Transportation Roadway Projects

Involving National Forest System Lands or Bureau of Land Management Lands

OVERVIEW OF CHANGES IN THIS DOCUMENT FROM THE PREVIOUS VERSION

- Revised non-functioning web links embedded throughout the text
- Updated page numbering and date of the document in the footer
- Updated references in text
- Updated principal contacts and signatories
- Clarified that debarred or suspended non-federal contractor principals cannot enter into covered transactions with the federal government under clause N.
- Added three more template clauses from USFS agreement language to pages 5-6:
 - J. Public Notices
 - K. USFS Acknowledged in Publications, Audiovisuals, and Electronic Media
 - L. Nondiscrimination Statement – Printed, Electronic, or Audiovisual Material
- Revised the following sections in Attachment A to clarify existing text:
 - IV. Field Inspection Review, Post-NEPA Project Design, Permits, Survey, Final Office Review, And Schedule
 - Clarifying when construction can begin
 - A. Timber - clarifying that the timber permit can work out project by project details
 - V. Requesting the Right-of-Way - Added a Subsection “E. Amending Existing Highway Easement Deeds” which has been very well received.
- Updated the following appendices:
 - Appendix A-1, Agency Contact Information (Fixed links)
 - Appendix A-2, Glossary/Definitions (added four new terms: Environmental Stain, Letter of Consent, Powder Coated, and Weathering Steel.)
 - Appendix A-3, Supplemental Visual and Scenic Resources Guide for CDOT Maintenance and Operations
 - General Requirements (Changes mostly about color selection and maintenance work guidance)
 - Signs (Clarification)
 - Guardrail (Added detail like for cable rail)
 - Earthwork and Embankments (Added best practice guidance)
 - Native Plant Revegetation (Reference clarity and remove duplicate guidance with General Requirements for maintenance)
 - Appendix A-4, Landscape, Aesthetics, and visual References (Fixed links)
 - Appendix A-6, Consultation for Third-Party Occupancy of CDOT Right-of-Way (ROW) Over Federal Lands (Added CDOT Access Permits to Request Type 1)
- Added the following appendices:
 - Appendix A-7 Letter of Consent Example for BLM Projects

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APPENDICES

Appendix A-1 Agency Contact Information
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Appendix A-3 Supplemental Visual and Scenic Resources Guide for CDOT Maintenance
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Appendix A-6 Consultation for Third-Party Occupancy of CDOT Right-of-Way Over Federal
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Appendix A-7 Letter of Consent Example

ABBREVIATIONS AND ACRONYMS USED IN THIS DOCUMENT

4(f) – Section 4(f) of the 1966 Department of Transportation Act

BLM – Bureau of Land Management

CDOT – Colorado Department of Transportation

CE – Categorical Exclusion

CEQ – Council on Environmental Quality

CFR – Code of Federal Regulations

DOT – Department of Transportation

EA – Environmental Assessment

EIS – Environmental Impact Statement

ESA – Endangered Species Act

FHWA – Federal Highway Administration

HED – Highway Easement Deed

GIS – Geographic Information System

GPS – Global Positioning System

LOC – Letter of Consent

MOU – Memorandum of Understanding

MUTCD – Manual on Uniform Traffic Control Devices

N/A – Not Applicable

NEPA – National Environmental Policy Act of 1969

NFS – National Forest System (U.S. Forest Service)

NHPA – National Historic Preservation Act

ROW – Right-of-Way

SHPO – State Historic Preservation Officer

SUP – Special Use Permit

USC – United States Code

USFS – USDA - United States Forest Service – US Department of Agriculture

VIA – Visual Impact Assessment

I. LONG RANGE PLANNING

For all project level activities, the terms US Forest Service (USFS), Bureau of Land Management (BLM), and Colorado Department of Transportation (CDOT) will refer to the appropriate USFS Forest Supervisor, BLM Field Manager, and CDOT Region Director unless otherwise noted in this MOU or designated by the respective agency. Addresses and phone numbers for administrative units of each agency are included in **Appendix A-1**. **Appendix A-2** includes a glossary or definition summary of key terms identified in the MOU.

A. Information to be Shared Between Agencies

CDOT will provide USFS and BLM with copies of the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and inventories and functional classification of the State transportation system. One copy of each will be sent to each USFS Forest Supervisor and BLM Field Manager, and two copies of each will be sent to the USFS Regional Forester and BLM Authorized Officer. These plans will also be available on the web at:

<https://www.codot.gov/programs/your-transportation-priorities/statewide-plan>

<https://www.codot.gov/programs/planning/transportation-plans-and-studies/stip>

USFS and BLM will provide CDOT's Division Director of Transportation Development with Forest Land and Resource Management Plans (Forest Plans) and plan corrections, land management plans (including amendments or revisions, if applicable), and transportation plans that indicate existing and planned land uses and the relationship between these uses and related travel. USFS and BLM plans may be available on the web through the following websites:

<http://www.fs.usda.gov/main/r2/landmanagement/projects>

<https://www.blm.gov/programs/planning-and-nepa>

http://www.blm.gov/co/st/en/BLM_Programs/land_use_planning/rmp.html

Geographic information system (GIS) data will be shared between signatories of the MOU at no cost when such data are available.

USFS and BLM will include Regional CDOT offices on their mailing list for notification of possible actions regarding National Environmental Policy Act (NEPA) documents, forest plans and plan amendments, and transportation plan related documents.

B. Programmatic Agreements

Early and continuous coordination between agencies will occur on applicable project-specific programmatic agreements. Each agency will assign a specific person to be the point of contact for each agreement. Each agency will agree to review and comment on the draft agreements according to an agreed upon schedule.

II. FEDERAL AID PROJECT COORDINATION

A brief description of common tasks that occur during the complex process of project coordination follows. A more detailed description of some tasks are found in later sections.

A. Designation of Project Coordinators

Each agency will designate a Project Coordinator to act as a key point of contact for all matters regarding the specific project. Agencies will assure that a Project Coordinator is named and available throughout the life of a project. Designation of a Project Coordinator will be done in writing; this document will also prescribe the roles and responsibilities of Project Coordinators.

CDOT, USFS, and BLM Project Coordinators will ensure the efficient flow of project related information between the agencies and within their respective agencies throughout the planning and implementation of the project.

CDOT, USFS, and BLM Project Coordinators will prepare a coordination schedule to aid in scheduling and tracking project milestones that will include response times.

B. Procedural Steps

These steps apply on highway development projects and not for routine activities (e.g., highway re-surfacing, re-stripping, etc.) where no disturbance is expected beyond the roadway surface.

1. CDOT Project Coordinator will:

Write a letter notifying USFS/BLM of the highway development project. Notification will include:

- a. Description of why the project is proposed,
- b. Draft Project Purpose and Need statement, when the project involves an EA or EIS,
- c. Extent of the proposed activity, and
- d. Estimated time schedule.

Provide CDOT project contacts for engineering, environmental analysis, and right-of-way (ROW).

Request that USFS/BLM designate a Project Coordinator.

Invite the USFS/BLM to participate in project scoping meeting and other scheduled meetings as known.

2. USFS/BLM Project Coordinator and other appropriate personnel will respond within identified schedules or timeframes:

- a. Provide CDOT with contact information.
- b. Participate in a project initiation meeting, which may include an on-site field inspection, provide comments to CDOT Project Manager, and determine if any other necessary agency staff should attend the project initiation meeting or field inspection.

- c. Identify the resource recommendations for CDOT's consideration during the highway development project's planning and design processes.
- d. Provide CDOT Project Manager with existing information relative to the project.
- e. USFS/BLM Project Coordinator should advise CDOT Project Manager on USFS/BLM issues and concerns as dictated by the project scope and extent. These may include:
 - 1) Potential inconsistencies with Forest Plans/Resource Management Plans,
 - 2) Anticipated social, economic, and environmental impacts and potential mitigation,
 - 3) Travel demand estimates for the highway, National Forest System (NFS), or BLM roads,
 - 4) Areas intentionally managed for recreation, including those without physical recreation features or where recreation is managed through authorized activities,
 - 5) Sensitive species and biological surveys,
 - 6) Potential cultural properties and recreational resources,
 - 7) Public lands survey monuments, location, and monument protection requirements,
 - 8) Potential staging, stockpile, or storage areas,
 - 9) Timber clearing, means of removal, and appraisal,
 - 10) Material sources, disposal sites and borrow pits,
 - 11) Public involvement needs for each agency,
 - 12) Facilities, such as cattle guards, stock passes, fences, approaches, signs, etc., necessary to the management of NFS lands that need to be incorporated into CDOT project design.
 - 13) Scenic, visual, and aesthetic guidance,
 - 14) Other issues of special concern.

USFS/BLM will promptly notify CDOT of proposed projects that may affect the physical or operational characteristics of transportation facilities within CDOT ROW including but not limited to those falling under the State Highway Access Code (C.R.S. 43-2-147(4)), oil and gas or mining development, ski area expansions, or developments that require federal action.

Notification of projects will include a description of why the project is proposed, the extent of the proposed activity, and an estimated time schedule. Where CDOT determines that such activities will have an impact on the state highway system, the same coordination activities outlined for CDOT projects should be followed.

C. Issue Resolution Between Agencies

The requesting agency will attempt to resolve the issue at the lowest organizational level consistent with the established project timeline if an agency fails to respond to requests for:

1. Designation of a coordinator,
2. Attendance at scoping/coordination meetings,
3. Other participation in project planning/design,
4. Review/comments, or
5. Permits.

If no resolution is achieved at the lowest organizational level, the requesting agency may initiate the dispute resolution process discussed within **Section XIII** of this MOU.

D. Cost Recovery and Collection Agreements

BLM or USFS cannot collect “cost recovery” fees when processing requests from CDOT, made through FHWA, for Title 23 highway easement deeds (HED). Applications by CDOT for BLM ROW grants outside a HED are exempt from “cost recovery” regulations per 43 CFR 2804.16 (a). Applications by CDOT for special use permits (SUP) from USFS outside a HED are subject to cost recovery regulations, but may be eligible for processing and monitoring fee waivers.

Collection agreements are voluntary fee collection agreements made to offset costs of a project. CDOT, BLM, and USFS can enter into any such separate agreements to pay for expenses incurred by another agency. These types of agreements between agencies will be negotiated on a case-by-case basis.

III. ENVIRONMENTAL COORDINATION AND NEPA DOCUMENT PREPARATION

FHWA, USFS, and BLM must comply with the NEPA in reaching decisions related to agency actions. Although the agencies comply with the same law, each agency has its own set of regulations, directives, and policies defining how the agency shall implement NEPA. On a single highway construction project, decisions by multiple agencies may be necessary and could require a different level of documentation per each agency’s own implementing direction. **Table 1** identifies examples of possible decisions and the typical NEPA documentation required by agencies.

A. One Shared Analysis

CDOT, USFS, BLM, and FHWA agree to use one shared analysis as the common ground for developing NEPA documents. In order to accomplish one shared analysis, agency staff will coordinate early to determine the scope of environmental analyses likely to be required for agency approvals. The goal then is to complete and document potential social, economic and environmental impact analyses for all highway-related decisions required by all signatory agencies. FHWA has authority on NEPA decisions related to FHWA funding or actions in an existing or proposed HED. In general, CDOT has authority on environmental and engineering decisions for transportation projects or activities in the HED, or where such a HED is in process, that do not involve federal funds. Decisions outside of an existing HED or that will not result from an FHWA action are under the authority of the land management agency.

The one shared analysis approach will apply to NEPA and other applicable environmental laws. For example, consultation may be required to comply with Section 7 of the Endangered Species Act (ESA) for an FHWA action on a federal land. This analysis approach would inform FHWA's decision to proceed and the associated decisions by the land management agencies to authorize temporary occupancy, execute a USFS or BLM management plan amendment, or issue a NEPA decision. The shared analysis then forms the basis of any required environmental documentation (e.g., NEPA, ESA, National Historic Preservation Act [NHPA], etc.).

Table 1. Examples of Possible Decisions and the Typical NEPA Documentation Required by Agencies

Action	FHWA/CDOT	USFS	BLM
CDOT minor construction or maintenance activities within existing HED	Typically CE	No NEPA action, coordination only	No NEPA action, coordination only
Temporary authorization outside ROW (SUP or ROW Grant)	Typically CE	Typically CE. USFS decision tiered to FHWA/CDOT NEPA. SUP issued.	Typically EA or CE if less than three years (CE if determined minimal impact)
Permanent easement/land appropriation	Typically CE	No decision required, therefore, no NEPA.	Typically EA
Mineral materials sale	N/A	Typically, CE or EA. USFS decision tiered to FHWA/CDOT NEPA Mineral Material Permit issued.	Typically EA
Long-term disposal or storage sites	N/A (Part of project NEPA clearance)	Typically, CE or EA. USFS decision tiered to FHWA/CDOT NEPA. SUP issued.	Typically EA
Associated amendment to land management plans	N/A	Typically EA	Typically EA
New construction on new alignment	EA/EIS	Cooperating Agency on FHWA/CDOT EA/EIS.	EA/EIS
BLM=Bureau of Land Management, CDOT=Colorado Department of Transportation, CE=Categorical Exclusion, EA=Environmental Assessment, EIS=Environmental Impact Statement, FHWA=Federal Highway Administration, HED=Highway Easement Deed, N/A=Not Applicable, NEPA=National Environmental Policy Act, ROW=Right-of-Way, SUP=Special Use Permit, USFS=US Forest Service			

Such a comprehensive analysis meets the intent of NEPA for better decisions and the intent of streamlining the process by ensuring effective cooperation early in the process, thereby avoiding late-arising issues and delays. The one-shared analysis is consistent with the existing roles and responsibilities as defined by the CEQ regulations and outlined in this MOU.

B. NEPA Roles and Responsibilities

FHWA is the Federal Lead Agency (40 CFR 1501.5) for federally funded transportation projects and has final decision authority for such projects. As such, FHWA is responsible for ensuring compliance with NEPA and for providing guidance and direction to CDOT in the preparation of NEPA documents. FHWA ensures that the regulatory requirement and coordination affected by the transportation project are met during the preliminary engineering and design phases.

USFS consents to the appropriation and transfer of NFS land interests for transportation purposes through the Letter of Consent (LOC) based on the NEPA documents. The BLM decision authorizing the issuance of a LOC for land transfer is also based on the NEPA document(s). As described in **Section V**, requesting a LOC is a first step toward developing a HED.

CDOT is a Joint Lead Agency and is responsible for preparing and processing technical environmental reports and NEPA documents developed for those projects. CDOT is also responsible for maintaining the project record for environmental documentation.

For projects within or adjacent to NFS or BLM lands, USFS/BLM will be asked to be a Cooperating Agency (40 CFR 1501.6). USFS and BLM are responsible for providing recommendations or stipulations to eliminate/mitigate the adverse effects of the projects on NFS/BLM lands and resources and are responsible for issuing a LOC, ROW, or SUP. This includes a statement of consistency with the Forest Plan and Resource Management Plan and those stipulations necessary for the protection and utilization of NFS/BLM lands.

There may be times when USFS/BLM may want to be a Joint Lead Agency. USFS/BLM may be Joint Lead Agencies with FHWA on federally funded transportation projects involving or affecting NFS or BLM lands for which the preparation of an Environmental Impact Statement (EIS) is required. Acting as a Joint Lead Agency allows for a joint NEPA decision document.

USFS or BLM is the Lead Agency for BLM land and resource management projects or USFS federally funded transportation projects. FHWA/CDOT may be Joint Lead Agencies with USFS or BLM or Cooperating Agencies on those agencies' land and resource management projects where significant impacts to the State transportation system may be reasonably anticipated.

In some instances, (i.e., where activity is proposed outside of a HED), each Federal agency may prepare a separate NEPA decision document. In the case of a Federal-aid highway project where the project qualifies for a CE under FHWA regulations, but not under USFS or BLM regulations, CDOT (with FHWA oversight) will collaborate to determine how best to accomplish one shared analysis (see **Section III.A**). For a CDOT project that must be documented as an EA for USFS or BLM purposes, CDOT will develop the Purpose and Need statement, brief alternatives discussion

(build, no build), environmental analyses, and forward to the land agencies for their public notification requirements.

The Lead Agency will ensure that the approvals received for the project include the regulatory requirements of other agencies that are not party to this MOU. Examples include the ESA Section 7 Consultation, with the US Fish and Wildlife Service; Section 404 of the Clean Water Act permit, from the US Army Corps of Engineers; and Section 106 of the NHPA, in consultation with the State Historic Preservation Officer (SHPO).

C. Interagency Project Scoping

Effective and early interagency collaboration and cooperation are crucial to the success of the one shared analysis process. Initiation of project coordination and the formal designation of a Project Coordinator are described in **Section II**. If the steps described in **Section II.B** have not been taken, they should occur as part of project scoping.

During early scoping and consultation, Project Coordinators will identify the issues and concerns listed in **Section II.B.2.e** to the maximum extent possible.

The Project Coordinators will also identify the decisions that are required by their agency in order for the project to move forward, and whether additional analysis is necessary for these decisions. These needs will be addressed in the analysis done for the project.

In identifying the decisions required, the Project Coordinators will identify the anticipated level of NEPA required for their agency to support the decision: Categorical Exclusion (CE), Environmental Assessment (EA), or EIS.

Agencies will cooperate in addressing issues as early as possible to identify information needs and avoid late- arising concerns. Resolution of issues will be documented in agency files for reference and consistency through the life of the project.

D. Section 4(f)

Section 4(f) of the 1966 US Department of Transportation (DOT) Act as Amended and codified in 23 CFR 774 apply to publicly owned parks, recreation areas, wildlife refuges, and historic sites (regardless of ownership). It applies to projects under the jurisdiction of, or funded by, any agency of the DOT, including FHWA. It applies in instances where property from any one of these resources is converted to a transportation use. Conversion of land to a transportation use from NFS/BLM lands does not necessarily trigger a Section 4(f) evaluation. Only those areas intentionally managed for purposes protected by Section 4(f), such as recreation areas, campgrounds, or historic sites, trigger Section 4(f) requirements. Determination of applicability of Section 4(f) to a specific project will be made by FHWA in consultation with CDOT, USFS/BLM, the Colorado SHPO, and other agencies as required.

E. Sensitive Species

USFS and BLM maintain lists of sensitive species that by policy receive special management attention due to concerns for decline and long-term persistence on the federal lands managed by the agencies. These species will need to be considered to satisfy USFS and BLM environmental clearances.

Surveys for sensitive species may be needed inside the HED area to meet agencies' NEPA requirements outlined above in **Section III**. CDOT staff will coordinate with local USFS and BLM offices to make these determinations in early phases of a project. In some cases, the agencies may agree to defer surveys because the species and its habitat are known to not occur in the project area. In other cases, for the purposes of project design and environmental analyses, the agencies may agree to defer surveys and presume the species is present if the project area falls within the known range of a species and suitable habitat exists.

CDOT, USFS, and BLM specialists and project coordinators will coordinate in the beginning stages of a project to develop project-specific species survey list, determine the scope of analyses required, and discuss potential design features to be considered. Although USFS and BLM staff will be available for general coordination and approval during the environmental review process, staffing limitations may prevent commitment of resources by USFS or BLM staff to complete surveys within a reasonable timeframe. In these cases, FHWA/CDOT will provide a biologist with appropriate experience in rare species surveys to conduct the survey. Forest Service "management indicator species" are not subject to surveys in FHWA/CDOT projects.

These surveys are not required when converting existing highways to HEDs (see **Section V.B.** for procedure).

F. Aesthetic Guidance

As part of project scoping and design, the agencies will identify the existing visually sensitive areas and aesthetic guidance related to USFS/BLM requirements and CDOT Guidance. Agencies are encouraged to begin coordination early through local agency offices. Per CDOT's Landscape Architecture Manual, overarching principles for aesthetic design of transportation systems include:

1. Consider the whole environment.
2. Create consistency throughout the state and within roadway corridors.
3. Develop elegant aesthetics as a result of well thought out and integrated engineering and consistent application of design principles to create a single project.
4. Create the roadway secondary to its environment.
5. Create the roadway character in response to the overall landscape, or design zone, of a place.
6. Avoid random changes in road segments or changing responses based on specific local conditions or piecemeal project construction.

CDOT's Landscape Architecture Manual and other landscape, aesthetic, and visual references are identified in **Appendix A-4**.

G. Visual Assessment

Consider important view sheds that include (a) the view from the road user's perspective and (b) the view of the road from the resident or adjacent community's perspective. Develop a Visual Impact Assessment (VIA) on all projects involving an EA or EIS in accordance with CDOT's Visual Impact Assessment Guidelines. USFS Scenic Integrity Objectives (also known as USFS Visual Quality Objectives according to some Forest Plans) defined in the Revised Management and Resource Management Plan must also be considered when performing a VIA. For CE projects, apply common best management practices for visual resource mitigation such as colored concrete barrier and painted posts and structures to achieve low contrast with the surrounding environment.

Additionally, permanent facilities such as drainage structures or bridge abutments should be reviewed and coordinated to ensure they meet visual and scenery standards. Landscape, aesthetic, and visual references are identified in **Appendix A-4**. In addition to the descriptions in **Section VIII.A, Appendix A-3** includes an overview of supplemental maintenance and operations details related to specific implementation details, such as material and color choices and other aesthetic considerations.

H. Public Involvement

The Lead Agency will work with the Cooperating Agencies to assure the public outreach and notification is sufficient for any related decisions. As part of early scoping, the agencies will jointly develop a public involvement plan that will adequately meet the needs of the agencies.

IV. FIELD INSPECTION REVIEW, POST-NEPA PROJECT DESIGN, PERMITS, SURVEY, FINAL OFFICE REVIEW, AND SCHEDULE

The purpose of this section is to outline the coordinated process used by CDOT as they progress from preliminary design to final design. Field Inspection Review represents approximately 30 percent design review for CDOT. Field Office Review represents approximately 90 percent design review for CDOT.

1. CDOT and USFS/BLM will participate in a joint design scoping review. A report documenting the review will be prepared and distributed by the originating agency.
2. Within 30 working days from the date of the design scoping meeting, CDOT, USFS/BLM, and FHWA will coordinate a project schedule that will include timetables related to merchantable timber and mineral materials sale(s) contract/permit.
3. CDOT and USFS/BLM will jointly determine necessary authorizations or permits required prior to starting any field surveys or site investigations.

4. Prior to final design, CDOT will define limits of disturbance and notify USFS/BLM of proposed clearing limits and timber and mineral materials to be removed. USFS/BLM will determine the appropriate method of disposing of merchantable timber and mineral materials and will coordinate with CDOT Project Coordinator for inclusion in final plans.
5. USFS/BLM will authorize CDOT (or its consultant) to survey, with any needed terms and conditions, and will provide data on survey monuments, maps, access routes, fire regulations, clearing limitations, material sources, and other information pertinent to the survey.
6. CDOT will provide USFS/BLM with two sets of preliminary plans and notify the USFS District/BLM Field Offices of the scheduled CDOT Field Inspection Review.
7. USFS/BLM will participate in the Field Inspection Review and submit comments to the CDOT Project Manager in accordance with the agreed upon project schedule. This should include any features of construction/reconstruction that may have an effect on the protection and utilization of the land traversed by the ROW and adjoining land under the administration of USFS/BLM.
8. Items to be added to CDOT construction plans and specifications will be mutually agreed upon by USFS/BLM, FHWA and CDOT by conference or other communication during the preparation of the plans and specifications for each project.
9. Recommendations received from USFS/BLM will be included in subsequent plans when feasible. Recommendations should be incorporated into the design plans as much as possible to keep LOC stipulations to a minimum. The CDOT Project Manager will review recommendations and return them to the USFS/BLM Project Coordinator if revisions are needed. USFS recommendations need to be agreed upon and finalized prior to final design.
10. CDOT will provide USFS/BLM with two sets of construction and ROW plans, along with proposed general contract provisions covering work affecting USFS/BLM lands, and notify USFS/BLM of the scheduled CDOT Final Office Review. The general contract provisions will include any appropriate USFS/BLM Fire Plan, Clearing Plan, Aesthetic Treatment and Strategies, and Stormwater Management Plan.
11. The USFS/BLM local office personnel will participate in the Final Office Review and submit comments on the final plans and specifications in accordance with the agreed upon project schedule. CDOT will incorporate mutually agreeable recommendations from the Final Inspection Review and Final Office Review in plans and specifications. These contract specifications cannot be modified without USFS or BLM agreement. Disputes will be resolved as per **Section XIII** of this MOU.
12. CDOT will submit final design and construction specifications to the USFS Regional Forester/BLM Authorized Officer, or their delegated representative. Construction commencement will follow **Section V** for roadway projects and **Section VIII** for maintenance purposes.

A. Timber

In order to improve public safety and reduce the risk of damaging critical infrastructure, CDOT will work with USFS/BLM to identify and eliminate hazard trees. Lane closures, road closures, and traffic delays may be necessary but will be minimized to the extent possible. Appropriate resource protection measures will occur to protect wildlife habitat, cultural sites, riparian areas, and other sensitive resources.

USFS/BLM will retain the right to any merchantable timber not specifically appropriated. CDOT will notify USFS/BLM of timber within the clearing limits scheduled for removal. USFS/BLM will determine whether a timber sale to an independent contractor or another authorization for removal is appropriate.

Any merchantable timber, defined as meeting current utilization standards for saw timber (logs) and wood products other than logs, will be, as determined by USFS/BLM:

1. Stockpiled in an area designated by USFS/BLM to be disposed of by other means,
2. Acquired by CDOT or the CDOT contractor at fair market value as determined by an appraisal, or
3. Permitted for non-sale disposal for use other than for commercial or industrial purposes or resale, to be disposed of in whatever manner is cost-efficient to CDOT.
4. Merchantable timber may be used as habitat or environmental features, such as streambank stabilization revetments or chipped as mulch or compost. The timber can be used on land outside of USFS/BLM if used within the project boundary and be reviewed and negotiated as part of the project's timber permit.

When USFS/BLM retain ownership of the timber cut within the clearing limits, USFS/BLM will stipulate the necessary procedures and specifications that must be followed for items such as marking, bucking, and decking (cutting and stacking). If USFS/BLM retain ownership, they will also be responsible for final disposal.

CDOT will notify USFS/BLM of any merchantable timber that may need to be removed as a result of construction or maintenance activities. All activities related to the removal of merchantable timber will be completed in accordance with the jointly developed project schedule described under **Section IV** above. The clearance area required for construction will be staked by CDOT for review by USFS/BLM in accordance with the mutually agreed upon project schedule and prior to the scheduled timber cruising operations. The Colorado State Forest Service may, at CDOT's discretion, act on behalf of CDOT in matters of forestry.

USFS/BLM will provide a written appraisal (if required) and contract or permit in accordance with the joint project schedule developed under **Section IV**. It is understood that the objective is for the appraisal (if required) to be completed at least 30 days prior to the bid opening. A forest products contract or permit (if required) would be completed no later than 30 days after CDOT awards the construction contract.

If merchantable timber is being acquired by CDOT or CDOT's contractor, at a fair market value as determined by an appraisal, CDOT or CDOT's contractor will provide direct payment to USFS/BLM for the appraised value of the timber prior to cutting. The negotiated schedule in **Section IV** above should reflect the applicable dates for flagging of the cutting limit boundaries, the completion of volume estimates and corresponding appraisal, and the issuance of the contract. USFS/BLM will not work directly with any subcontractors unless specified under the project schedule.

If the timber is stockpiled on NFS/BLM land, the site must be identified by USFS/BLM and agreed to by CDOT, and any necessary environmental clearances obtained.

If so allowed by USFS/BLM, the timber can be sold to the public or given to the public under non-sale disposal authorities.

B. Borrow Pit Sites and Mineral Material Sales

USFS must collect fair market value for mineral materials taken from NFS lands. A USFS mineral material contract is required whenever material is removed from a borrow pit or excess material is removed from the construction site. This contract/permit for a borrow pit is for the excavation, crushing, screening, and removal only. Further processing of the material on NFS/BLM lands such as batch plants will require a separate authorization from USFS or BLM. USFS retains the federal management responsibilities for all mineral materials on NFS lands.

The negotiated project schedule must reflect all issues and decisions regarding the disposal or use of mineral resources. Excess mineral materials that are generated during construction activities will be temporarily stockpiled in an area designated by USFS/BLM. Such materials are the property of the United States and the sale or disposal of this material will follow the procedures outlined below. The site and length of time the material may be stored will be designated in the project specifications.

The BLM does not require a separate authorization for processing materials onsite. If further processing is required and the proposed activity is to be located on NFS/BLM lands, a permit will be necessary to authorize that activity.

Mineral material generated on NFS/BLM lands and used in a public purpose project, such as a highway construction project, is free of charge to FHWA or CDOT. Coordination between USFS and CDOT will be required. A "free use" contract/permit may be required. If required, the "free use" contract/permit may be issued to a designated agent (contractor) of FHWA or CDOT at the discretion of USFS. BLM will not issue a permit to a contractor; the BLM will only issue the Free Use Permit to the appropriate government agency (CDOT). CDOT may contract out the removal of the material, but the contractor may not charge for the minerals.

Excess material removed from NFS/BLM lands and sold for commercial purposes, other than for public projects, must be purchased by CDOT or by CDOT's contractor at Fair Market Value. Fair Market Value may be determined by use of existing USFS value schedule or by separate

appraisal at the discretion of CDOT. Appraisals conducted by CDOT or private parties must be reviewed and approved by USFS/BLM specialists.

The USFS mineral materials contracts and permits will contain requirements to rehabilitate the used borrow pits. The BLM may require a bond covering the cost of reclamation. CDOT will hold the contractor responsible for meeting these requirements.

Materials used for construction will be managed to minimize the negative aesthetic implications of construction logistics. Materials acquisition, storage, and clearance of excess cut and fill, and the disposal of waste materials will be predetermined and controlled with a pre-approved, corridor-wide Construction Management Plan. The plan will assist in anticipating where materials will be stored, sourced, and used.

V. REQUESTING THE RIGHT-OF-WAY

Lands appropriated under Title 23 of the Federal Lands Highway system are for use by the States for highways or highway material purposes only. USFS and BLM retain authority for all land uses not provided by Title 23. FHWA authority is limited to ROW for the Federal-aid Highway System and those classes of highways provided for in Chapter 2, Title 23 USC. Chapter 2, Title 23 USC also includes other permissible uses of funds appropriated to the State for construction, maintenance, and operation of trails. Title 23 requires that trail projects be principally for transportation purposes rather than recreation purposes.

A. Perpetual Right-of-Way for Transportation Purposes and the HED Process

All land appropriations by CDOT from USFS/BLM will be conducted consistent with the FHWA Federal Lands Transfer Manual. As stated in the manual, the ROW appropriation grants CDOT the rights necessary to construct, operate, and maintain a roadway. CDOT's ROW functions are further outlined in CDOT's ROW Manual, which ensures statewide consistency and includes procedures for requesting ROW from USFS and BLM. Additionally, a HED may include a mineral material site (e.g., borrow site and construction material). See **Section IV.B** for permit requirements related to mineral material sites on NFS lands.

A USFS SUP or BLM ROW Grant held by CDOT is no longer the appropriate legal ROW document for highway/transportation purposes. See **Section V.B.2.** for handling conversions.

After preliminary design is complete, following the Field Inspection Review and completion of CDOT's NEPA process, CDOT will submit to FHWA a request for appropriation and transfer of land interests for transportation purposes sufficient to accommodate the proposed project. FHWA/CDOT will ensure that all permanent facilities (such as drainage structures or bridge abutments) will be included in the request for permanent ROW. The request for HED will include sufficient ROW to maintain any permanent highway-related features and structures. The request will be accompanied by final ROW plans (including alignment, topography, and proposed ROW lines, tabulation of ROW, temporary construction areas and permanent easement). The request will also state the need for the LOC to authorize immediate permission to enter for construction of the project. Any activity outside of the HED area would require further USFS/BLM authorization.

FHWA will evaluate the request for appropriation and, if in agreement, request a LOC from USFS/BLM, which is the first step toward developing a HED. USFS/BLM has four months from the date of receipt of the request to respond for a LOC. If USFS/BLM does not respond within the four months, FHWA may proceed with the appropriation of lands.

USFS/BLM will review the request for a LOC and, if approved, USFS Regional Forester/BLM Authorized Officer issues a LOC with stipulations to FHWA. Upon issuance of the LOC, USFS/BLM can authorize immediate entry on NFS/BLM lands subject to the terms set forth in the stipulations and LOC.

Subsequently, CDOT will prepare a DOT HED based on authorized ROW plans that contain the stipulations and reduced plan set showing the property requested. CDOT's Chief Engineer will execute the HED for CDOT, approving the stipulations, and the Colorado Attorney General's office will review the HED for legal sufficiency and return the HED to CDOT to be forwarded to FHWA.

FHWA and FHWA's Chief Counsel will review the HED. If it meets the requirements of the LOC and its stipulations, FHWA will execute the HED and return it to CDOT for recording.

The CDOT Headquarters Office will provide four copies of the recorded HED to FHWA for distribution to the appropriate offices of USFS/BLM.

B. Conversion of Existing Highways to Easement Deeds in the Absence of Reconstruction

On existing state highways, where no request for appropriation and transfer of land interests for transportation purposes has been requested and no HED has been issued, the following Conversion process should be used to obtain the HED:

1. Follow the steps outlined above in **Section V.A** to request a HED.
2. The requested target easement width is 150 feet (75 feet parallel with and perpendicular to either side of the physical centerline of the highway), with allowances for cuts, fills, drainage structures, etc., as mutually identified and agreed upon. Exhibit maps may be generated from available GIS databases and aerial photography to show intent of width from the physical centerline of the highway. A global positioning system (GPS) will be used. In the case where existing monumentation exists, the highway centerline will tie to that existing monument. In the case where survey monumentation may be impractical, the physical centerline of the highway, as identified via GPS survey, will be the monument.
3. Prior to submitting a request for conversion of any highway, the CDOT Project Manager, CDOT Region ROW Manager, or CDOT Region Survey/Plans Coordinator, and USFS/BLM Authorized Officer (or their designated representative) will travel the highway(s) involved in the conversion request. The CDOT Project Manager and USFS/BLM Authorized Officer will make a determination as to whether an easement width of 75 feet on each side of centerline is appropriate. Where this width is not appropriate to

cover the area required, operating and maintaining the highway will use a more appropriate (either reduced or increased) width.

4. The set of ROW Plans or Exhibit Maps reflecting the agreed upon easement locations and widths being requested will be submitted by CDOT to USFS/BLM Project Coordinator for review prior to submittal to FHWA to request a LOC.

C. Selecting the Appropriate Authorization on NFS/BLM Lands

HED applies only to facilities directly used for transportation purposes and in the ROW. For clarification purposes, Title 23 defines the term “highway” as a road, street, and parkway; a ROW, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department.

All other CDOT facilities on or uses of NFS/BLM land (including maintenance yards, sand sheds, wetland mitigation sites, and temporary construction areas) will require a SUP from USFS or a ROW grant from the BLM. Authorization for other uses by CDOT on NFS/BLM lands is usually requested through the Standard Form 299 “Application for Transportation and Utility Systems and Facilities on Federal Lands.” Information to submit in the Standard Form 299 application is further detailed in 43 CFR 2804.12 for BLM, and can be obtained from the local office of the USFS/BLM.

Completion of this application and the need for a SUP or ROW grant is for activities outside the HED area. Transportation activities occurring inside the HED do not require a USFS SUP or BLM ROW grant, so completion of this form is not required.

D. Notification of Land Ownership Adjustment

USFS/BLM will notify the CDOT Headquarters ROW Office of any proposed land ownership adjustment or land exchanges affecting CDOT facilities or ROW. Upon notification, CDOT will determine the necessity of applying for an easement deed to protect its interest prior to completion of the land exchange.

E. Amending Existing Highway Easement Deeds

If the boundary of an existing HED must be expanded or modified to construct, operate or maintain a roadway, the following process should be used:

1. If additional HED area is required, follow the steps outlined above in **Section V.A.** to request a HED. The request from CDOT to FHWA will reference to the existing HED and a copy of the existing HED with all exhibits will be included in the request package. Where applicable, the boundaries of the existing HED should be noted on the ROW Plans.
2. If a portion of the existing HED is no longer needed for highway purposes, CDOT will execute an Affidavit of Extinguishment and record in the appropriate county. The Affidavit of Extinguishment will be provided to FHWA and USFS/BLM once recorded.

The Affidavit of Extinguishment will contain an exhibit showing the portion of the HED that is no longer needed for highway purposes. If a new HED is being requested in connection with the extinguishment, a copy of the recorded Affidavit of Extinguishment will be provided to FHWA and USFS/BLM prior to the issuance of the LOC by USFS/BLM. The new HED will also make reference to the recorded Affidavit of Extinguishment.

3. If the stipulations of a new HED will conflict with any existing HED stipulations sharing the same quarter-section, township and range, the new HED will contain language which excepts prior easement areas from the described land.

If the stipulations of the existing HED will apply to the new HED area, this will be stated within LOC. The new HED will then reference the existing stipulations and include the existing HED as an exhibit.

VI. AUTHORIZATION FOR ENTRY DURING EMERGENCY SITUATION

Emergency situations resulting from natural disasters or catastrophic failures from an external cause require that CDOT's response restore essential travel, minimize the extent of damage, and protect the remaining facilities. All agencies involved (FHWA, CDOT, USFS, and BLM) will cooperate to the best of their abilities during such events. All activities will follow FHWA's Emergency Relief Manual.

According to FHWA's Emergency Relief Manual, emergency and permanent repairs are defined as follows:

1. **Emergency repairs** are repairs undertaken during or immediately after a disaster to restore essential travel, to minimize the extent of damage, or to protect the remaining facilities. Emergency repairs permit work that cannot wait for a finding of eligibility and programming of a project to begin. State and local transportation agencies may start emergency repairs without prior authorization.
2. **Permanent repairs** are those repairs undertaken after the occurrence of a disaster to restore the highway to its pre-disaster condition. This includes work such as Restoration-in-Kind and Replacement-in-Kind. Refer to FHWA's Emergency Relief Manual, Chapter II, Section D for the full list of categories of work included in Permanent repairs.

Emergency repairs may also be conducted by CDOT outside the ROW to repair, stabilize, or neutralize the problem area(s). CDOT will promptly notify USFS/BLM of emergency repairs taken or proposed. Through coordination with the local USFS or BLM office, a SUP (from USFS) or a ROW grant (from BLM) may be necessary.

USFS/BLM may construct temporary approaches as necessary during firefighting or other emergencies without formal CDOT approval. USFS/BLM will notify CDOT as soon as practicable. Following emergency use, necessary obliteration and restoration measures will be made at no

expense to CDOT. USFS/BLM will take precautions during such emergencies to safeguard highway users.

VII. CONSTRUCTION/RECONSTRUCTION

A. Designation of Construction Coordinators

CDOT and USFS/BLM will designate respective Construction Coordinators to provide coordination on matters related to the construction work or changed conditions that may alter the land allocations for approved plans.

B. Coordination During Construction/Reconstruction

CDOT will invite USFS/BLM to attend the pre-construction conference with the successful bidder.

After the LOC is issued and during construction, and before committing to any action, CDOT will consult with the USFS/BLM Construction Coordinators prior to approving any changes in design, materials, plans, or specifications that may affect NFS/BLM lands or resources.

Changes in ROW requirements or conditions affecting the project NEPA decision that occur during construction or reconstruction activities may necessitate additional analysis and coordination.

In preparation for final inspection, CDOT will invite USFS/BLM to participate in a site visit.

C. Post-Construction Coordination

FHWA/CDOT, in coordination with USFS/BLM, will continue to monitor project mitigation measures to ensure effectiveness and compliance with NEPA decisions and permit requirements.

Project and construction coordinators will evaluate, on a project specific basis, what processes or coordination worked well or did not work well. Processes that worked well should be implemented into future projects.

FHWA/CDOT will coordinate with USFS and BLM on completing landscape establishment and noxious weed management.

VIII. OPERATIONS AND MAINTENANCE

A. General Operations and Maintenance Within the Right-of-Way

Operations and maintenance activities within the ROW, as defined by the area covered in the current or planned HED, will not require coordination unless specifically required in either the HED or this MOU. Even if they are not federally funded, operations and maintenance activities or projects to maintain standard operations of federal-aid highways are also covered by this MOU. In addition to the descriptions in this sub-section, **Appendix A-3** includes an overview of supplemental maintenance and operations details related to specific implementation details, such as material and color choices.

Operations include services such as snow removal, ice alleviation, and sanding. Maintenance is defined as minor restoration and upkeep to preserve the entire facility (including roadway, shoulders, slopes, drainage improvements, safety devices, retaining walls, culverts, and other features consistent with the stipulations in the LOC). Maintenance includes mowing, vegetation removal, culvert and ditch cleaning, road striping, pavement patching, debris removal, and other services necessary for safe and efficient operation of the state highway system. Operations and maintenance does not include activities that result in betterment or a higher service level of the facility, such as realignment, widening, or other improvements considered to be reconstruction.

CDOT will perform operations and maintenance activities to preserve and enhance scenic, environmental, aesthetic, and safety characteristics of transportation facilities, and to be compatible with the adjacent NFS/BLM lands and resources. CDOT Standard Operating Principles for Snow Removal will be used as a baseline for operations and maintenance by CDOT within ROW on NFS/BLM lands.

With respect to operations and maintenance activities only, the term ROW is defined as the legal limits of the HED if a HED exists, or the area between the existing top of cuts and toe of fills if no easement exists.

The following are general operations and maintenance guidelines:

1. Routine maintenance activities within the ROW are allowed under a HED provided no waste material is deposited outside the ROW onto NFS/BLM lands.
2. All operations activities will be performed to minimize and control soil erosion and deposition both in the ROW and on adjacent lands.
3. For use of biological or chemical control in clearing or vegetation maintenance on any NFS/BLM lands, CDOT will follow the provisions contained in the HED if within a ROW covered by an easement; consult with USFS/BLM if within a ROW not covered by an easement; or obtain written approval for outside the limits of the ROW.
4. CDOT will notify USFS/BLM of any merchantable timber that may be removed or damaged as a result of maintenance activities, prior to that activity (see **Section IV.A**).
5. CDOT may assess ROW corridors for potentially hazardous trees, bug damaged trees, and sufficient clear zones/areas and will request that USFS include removal of such trees in any future timber sales planned for the area. USFS will determine the method of removal within its authorities including sale of trees to CDOT for removal. If the USFS is not able to remove the trees, CDOT may request authority as outlined in **Section IV.A**.
6. CDOT will notify USFS/BLM when facilities (such as fences or cattle guards) that are USFS/BLM responsibility are not being adequately maintained or will be impacted by CDOT operations and maintenance within the ROW.
7. CDOT is encouraged to consult with USFS/BLM when developing operation and maintenance plans and best management practices for use on highways within NFS/BLM lands to ensure protection, and limit impacts on adjacent Federal lands.

8. CDOT is responsible for the removal and cleanup of releases where a responsible party cannot be found or of threatened releases of hazardous substances originating on the highway ROW, including those that extend beyond the boundaries of the appropriated ROW to adjacent NFS/BLM lands and resources. In the event of threat of damage to adjacent public lands, USFS/BLM will notify CDOT of its concerns and, if necessary, request assistance from FHWA.
9. USFS/BLM will notify CDOT of planned timber sales and vegetative management projects and provide maps identifying planned management areas. CDOT will review the planning areas for trees that need to be cleared for public safety of the highways. The trees will be identified to USFS for inclusion in timber sales or other vegetative management where possible. If USFS is not able to remove the trees, CDOT may request authority as outlined in **Section IV.A**.
10. USFS/BLM will notify CDOT of planned USFS/BLM activities that may affect transportation operations or maintenance, such as prescribed burns and logging operations.

B. Imminent Hazards

CDOT may remove imminent hazards, such as avalanche hazards, rockslides or trees, without formal USFS/BLM approval and will notify USFS/BLM as soon as practicable. Removed material will be disposed of at locations mutually agreeable to CDOT and USFS/BLM. Snow avalanche hazard mitigation is addressed in **Section XII**.

C. Operations and Maintenance Outside the Right-of-Way

CDOT will coordinate with USFS/BLM on any operations and maintenance activities that may affect USFS/BLM outside the ROW and for any actions occurring inside the ROW that could result in indirect effects outside the ROW (e.g., surface alteration or avalanche hazard mitigation equipment installation). CDOT will provide USFS/BLM a 60-day advance notification time on scheduled work activities that may affect USFS/BLM outside the ROW. Prior authorization, including environmental coordination, is required by USFS/BLM before commencing work outside the ROW. Coordination related to activities occurring inside the ROW is addressed in **Section VIII.A**. Snow avalanche hazard mitigation is covered in **Section XII**.

D. Non-Routine Maintenance Activities

Non-routine maintenance activities within the ROW such as significant amounts of clearing, changes in established drainage patterns, and material sources and storage/disposal sites will be mutually agreed upon by USFS/BLM and CDOT by conference or other communication prior to commencing the work.

IX. SIGNING AND PAVEMENT MARKINGS

A. General Policies and Responsibilities

The agencies should jointly develop a project public access sign plan in accordance with the "Manual on Uniform Traffic Control Devices" (MUTCD) and the Colorado supplement of the

MUTCD. Examples of common signs are shown, but are not limited to those, in **Appendix A-5** of this agreement.

Any signing needs not covered under this section will be proposed, mutually reviewed, and approved on a site-specific basis by USFS/BLM and CDOT. Unresolved problems and items requiring approval of higher authority will first be referred to CDOT Sign Variance Committee. If USFS/BLM and the Sign Variance Committee do not resolve the issues, they will be referred to upper management using the dispute resolution process discussed within **Section XIII** of this MOU.

CDOT will furnish, install, and maintain all regulatory, warning, and guide signs, other than those requested by USFS/BLM, within the ROW along the interstate and state highway systems. CDOT will maintain all pavement markings including lines, words, and symbols.

USFS/BLM requested signs will be mutually reviewed and agreed upon by USFS/BLM and CDOT to assure compliance with this MOU, the MUTCD, CDOT "Guide Signing Practices and Procedures," and CDOT standards. USFS/BLM will furnish, install, and maintain the following signs:

1. USFS/BLM boundary signs (see **Appendix A-5** examples BDY-1, BDY-2, and BDY-3).
2. USFS/BLM signs RD-1 and RD-2 (see **Appendix A-5**).
3. Special interpretive signing.
4. Other signs needed for USFS/BLM management.
5. USFS/BLM requested signs guiding motorists to USFS/BLM facilities will be furnished in accordance with the "Nonbinding Agreement" clause of this MOU, and installed and maintained as follows:
 - a) Furnishing of signs and initial sign installation will be determined on a case-by-case basis, depending on the scope of the proposal and availability to support, and, may be provided by either agency or on a shared basis (for example, USFS/BLM furnish and CDOT install).
 - b) CDOT will maintain these signs in CDOT ROW only after installation. Any other signs will be maintained by USFS/BLM.
 - c) USFS/BLM recreation site guide and identifier signs will consist of white lettering or symbols on a brown background.

It is understood by all parties that this MOU does not provide procurement authority for the purchase of signs.

Location and installation of specific service signs and tourist oriented directional signs within the limits of CDOT's HED across NFS/BLM lands is the responsibility of CDOT or their contractor and will be done in conformance with MUTCD and CDOT standards.

CDOT will review proposed sign locations with USFS/BLM prior to selecting final locations.

Only the most direct route for any destination will be signed.

Existing signs on the state highway system, which do not meet the standards established in this MOU, may be removed by CDOT after prior written notification to the USFS Ranger District/BLM Field Office.

USFS/BLM boundary signs will include the respective agency's shield.

B. Criteria for Sign Locations

The NFS/BLM land access signs (see **Appendix A-5** examples ACC-1 and ACC-2) are installed at locations where roads provide all-weather, passenger car access to USFS/BLM developed recreation sites originating from state highways.

The National Forest Boundary/BLM Boundary signs (see **Appendix A-5** examples BDY-1, BDY-2, and BDY-3) are installed at points where a highway first crosses a USFS/BLM boundary.

Visitor Information Site signs (see **Appendix A-5** examples INF-1 and INF-2) are installed for staffed facilities that are adjacent to a state highway, are within ten road miles of a Federal lands boundary, and are located in a rural area or a community of less than 50,000 population.

Developed Recreation Sites and other recreation areas signs will meet the requirements of MUTCD Section 2H-08 and depicted in Figure 2H-2 of the MUTCD. Sites generally should be located within one mile of the state highway, have physical improvements (other than roadway), be identified on USFS or BLM visitor maps, and provide parking for at least ten vehicles. Included are such sites as:

1. Campgrounds – when sanitary facilities are provided.
2. Picnic areas – when sanitary facilities are provided.
3. Overlooks – when interpretive signing is provided.
4. Fishing Access Sites – when accessible for handicapped persons (exempt from ten [10] vehicle minimum parking limitation).
5. Historical information sites.
6. Other points of interest as mutually agreed.

Primary access road signs (see **Appendix A-5** examples RD-1 and RD-2) are installed at junctions with USFS/BLM roads, which are maintained for passenger car traffic.

Scenic Byway signs (see **Appendix A-5** example SB-1) are installed at locations established under the Guidelines for Scenic Byway Signing (see **Appendix A-5**). Signs will be installed by CDOT along highways.

Wildlife Viewing Area signs (see **Appendix A-5** example WW-1) are installed at sites identified in the Colorado Wildlife Viewing Guides and in accordance with CDOT guidelines. Signs will be installed by CDOT along highways.

Other areas are to be mutually agreed upon (e.g., interpretive waysides and scenic overlooks).

X. ACCESS CONTROL

Access to interstate highways will be only by established interchanges, except for emergency use in accordance with the rules and regulations governing the Interstate Highway System.

USFS/BLM or its permit holders will obtain a State Highway Access Permit for any new or revised road approaches to state highways. New approaches and any other requirements for complying with the State Highway Access Permit will be the responsibility of USFS/BLM permit holders unless specifically addressed in the permit. If planned activities of USFS/BLM, or its permit holders, will affect highway operations, any necessary permits from CDOT, including traffic control permits, will be obtained. Applications will not be inconsistent with the data and information requirements of the State of Colorado State Highway Access Code, Vol 2, Code of Colorado Regulations 601-1, March 2002. The seal of a Colorado registered professional engineer is required on all plans, traffic studies, engineering analyses, reports and drainage plans submitted to an issuing authority or CDOT; for any proposed access and construction plans involving changes to the roadway; or for access if the volume of the development is predicted to exceed 100 vehicles per day.

Appendix A-6 outlines the agreement process for USFS, BLM, or any other third party to request access/use of CDOT ROW. That process includes determining whether a proposed activity (such as permanent improvements or temporary access/temporary use for events) would result in an adverse impact on a CDOT facility.

XI. THIRD PARTY OCCUPANCY

The grant of an easement to CDOT by FHWA does not include the grant of any rights for non-highway purposes, facilities, or occupancy by third parties.

In the case of a third party, such as a public utility, wishing to locate on highway ROW over NFS/BLM lands, CDOT will advise the third party that it must first apply to USFS/BLM for an authorization pursuant to **Appendix A-6**. CDOT, USFS, and BLM will consult through local agency offices before any third party occupancy permits and/or other encumbrances are acted upon to determine if such occupancy may impact highway safety, operations and maintenance, and efficiency. Requirements for consultation are also included in **Appendix A-6**.

XII. SNOW AVALANCHE HAZARD MITIGATION

CDOT will maintain a statewide avalanche management plan and has the responsibility to approve the plan. Local operating procedures will be developed to prescribe site-specific avalanche management activities and may include maps and photographs, hazard mitigation measures, gun placements, media contacts, location and responsibility for warning signs, and names and/or positions of personnel responsible for various activities. These local procedures will become part of the statewide avalanche management plan and will be prepared in cooperation with CDOT Regions and local USFS/BLM field offices. Protecting backcountry users from avalanche hazards is beyond the scope of this plan.

CDOT, USFS, and BLM mutually agree to cooperate regarding highway maintenance avalanche safety activities, warning signs, permanent and semi-permanent installations, summer maintenance, and avalanche safety in accordance with the general principles and specific procedures outlined in this MOU.

CDOT will coordinate with the USFS or BLM prior to construction/reconstruction of avalanche equipment. Environmental studies or additional permits may be required. The development of permanent and semi-permanent installations will follow the criteria in **Appendix A-3**.

XIII. DISPUTE RESOLUTION

All agencies agree to work cooperatively to avoid and resolve conflicts. The agencies agree to explore issues thoroughly before seeking to use this dispute resolution mechanism by ensuring that adequate communication has occurred, that all agencies fully understand the issues, and the reasons why an agency is committed to a position. If disagreements emerge that cannot be resolved, the impasse will be escalated as illustrated in **Table 2**.

Table 2. List of Agency Contacts and Level of Dispute Resolution (Beginning with Level 1 and Progressing to Level 4)

	USFS	BLM	CDOT	FHWA
1	USFS Project Coordinator	BLM Project Coordinator	CDOT Project Coordinator	FHWA Area Engineer
2	Forest Supervisor	Field Manager and District Manager	Resident Engineer/ Program Engineer/ Regional Transportation Director	Program Delivery Engineer
3	Deputy Regional Forester	Deputy State Director, Division of Energy, Lands, and Minerals	Chief Engineer	Assistant Division Administrator
4	Regional Forester	State Director	Executive Director	Division Administrator

When the parties at the lowest organizational level of the agencies have agreed to escalate, a meeting date will be established within five days. At that time, representatives from the agencies at both levels will meet to discuss the issues and come up with a resolution. If an agreement cannot be reached, then the issue will be escalated to the next level and a meeting date established within five working days. At that time, representatives from the agencies at all three levels will meet to discuss the issues and come to a resolution. If an agreement cannot be reached, the issue will be escalated to the highest level and a meeting date established within five working days. At that time, all agencies will come to resolution.

Mediation and facilitation may be used at any level to help expedite resolution. Documentation of all disagreements and resolutions will be furnished to all involved agencies and included in the project file.

APPENDIX A-1

AGENCY CONTACT INFORMATION

CDOT Transportation Region and Directors: <https://www.codot.gov/about/regions.html>

CDOT Key Roster of Personnel: <https://www.codot.gov/topcontent/>

FHWA Colorado Division: <http://www.fhwa.dot.gov/codiv/directory.cfm>

USFS Region 2 Rocky Mountain Region: <https://hrm.gdcii.com/directory/R2.htm>

BLM Colorado State Office and District and Field Offices:

<https://www.blm.gov/colorado>

APPENDIX A-2

GLOSSARY/DEFINITIONS

Note: References to a [source] in this appendix are weblinks in the digital version of this document.

Aesthetics: A set of principles concerned with the nature and appreciation of beauty.

Collection Agreement: USFS may accept money, equipment, property, or products from non-Federal parties to perform research activities authorized by Federal statutory authorities. [\[source\]](#) Collection agreements are voluntary and made to offset costs of a project.

Controlled Access: Controlled access occurs along highways on which owners or occupants of abutting lands and other persons are denied access to or from the highway, except at such points only and in such manner as determined by CDOT/FHWA. Permits are necessary from CDOT for parties seeking access to the highway.

Cost Recovery: USFS may assess fees to recover the agency's processing costs for special use applications and monitoring costs for special use authorizations.

Emergency Repairs: Repairs undertaken during or immediately after a disaster to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. [\[source\]](#)

Environmental Stain – Process where galvanized steel guardrail has a stain applied that reacts with the zinc and turns brown over a short period of time as it is exposed to the environment. The staining is not a coating, but a chemical reaction that changes the color of the galvanized steel.

Field Inspection Review: CDOT milestone representing approximately 30 percent design.

Field Office Review: CDOT milestone representing approximately 90 percent design.

Highway Easement Deed: The United States of America, acting through the FHWA, appropriates and transfers to the State DOT, the lands or interests in land described therein, subject to any specified conditions. [\[source\]](#)

Letter of Consent: a nonpossessory interest in sovereignty-submerged lands created by an approval which allows the applicant the right to erect specific structures or conduct specific activities on said lands.

Maintenance: Includes minor restoration and upkeep to preserve the entire facility.

Operations: Includes services for safe operations of the entire facility.

Permanent Repairs: Repairs undertaken after the occurrence of a disaster to restore the highway to its pre-disaster condition. [\[source\]](#)

Powder Coated – Process where galvanized steel guardrail has a brown powder coat type paint applied to it. This is considered a duplex coating since it is coating that is placed on top of the galvanized metal.

Right-of-Way (*general definition*): The area covered in the current or planned HED.

Right-of-Way (*for maintenance activities*): The legal limits of the HED if a HED exists, or the area between the existing top of cuts and toe of fills if no easement exists.

Right-of-Way Grant: Includes an easement, lease, permit, or license to occupy, use, or traverse BLM lands. [\[source\]](#)

Scenic Integrity Objectives: Scenic Integrity indicates the degree of intactness and wholeness of the landscape character. The scenic integrity objectives establish limits of acceptable human alterations as the landscape moves toward a landscape character goal.

Special Use Permit: A written permit, that authorizes use or occupancy of USFS lands and specifies the terms and conditions under which the use or occupancy may occur. [\[source\]](#)

Sensitive Species: Generally, refers to species that are declining or appear to be in need of conservation. USFS and BLM maintain lists of sensitive species that must be considered to satisfy USFS and BLM environmental clearances.

Visual Impact Assessment: May be required in major reconstruction projects where there is a substantial visual change proposed in the highway corridor, where new or out-of-kind replacement buildings, bridges or other structures are proposed, or where there is significant vegetative cutting along state highways.

Weathering Steel – Typically referred to as COR-TEN (U.S. Steel registered trademark name), with the international standards name of ASTM A588, with the AASHTO reference of M 180-12 as Type IV steel. The weathering steel patinas over time as it is exposed to cycles of wet and dry weather.

APPENDIX A-3**SUPPLEMENTAL VISUAL AND SCENIC RESOURCES GUIDE FOR
CDOT MAINTENANCE AND OPERATIONS**

CDOT has agreed to implement project-specific design protocols to support USFS and BLM management plan standards and guidelines for visual and scenic quality. These protocols help soften visual impacts associated with highways and their appurtenances.

Topics discussed in this overview apply to new construction, reconstruction and maintenance projects by CDOT and do not apply to existing conditions. Health, safety, and welfare will take precedent concerning temporary replacement of the items in this appendix.

General Requirements

1. All projects will avoid and/or minimize disturbance to vegetation. All disturbed areas will be revegetated as appropriate.
2. Color selection will be determined during the NEPA process. In this document, Federal Standard colors are referenced.
3. Delineator posts will be Forest Service brown (Federal Standard 595 FS 20059) or dark green in color (Interstate Green, in accordance with Manual on Uniform Traffic Control Devices [MUTCD] Color Specifications [23 CFR 655]).
4. All exposed concrete and shotcrete surfaces will require a color-treatment. The preferred method of color-treatment is the use of stain or colored concrete to achieve an appearance agreeable to the USFS or BLM.
5. CDOT work not covered under NEPA Process will get guidance from the CDOT Region RPEM for all maintenance activities, including standard colors, stains, visual impacts, reflectivity, hydrologic features, sound attenuation and landscaping.
6. CDOT landscape architect will consult with USFS and BLM landscape architects for all substitutions and replacements.

Specific Requirements

1. Reflectivity

All above ground man-made elements (i.e., the built environment) must meet reflectivity guidelines. This includes any reflective surfaces (metal, glass, plastics, or other materials with smooth surfaces) that do not blend with the natural environment. They should be covered, painted, environmental stained, chemically treated, etched, sandblasted, corrugated, or otherwise treated to meet the solar reflectivity standards. The specific requirements for reflectivity are as follows: Facilities with exteriors consisting of galvanized metal or other reflective surfaces will be treated or painted dark non-reflective colors that blend with the forest background to meet an average neutral value of 4.5 or less as measured on the Munsell neutral scale. This requirement does not apply to sign faces. Sign faces are covered under the MUTCD guidelines (<http://mutcd.fhwa.dot.gov/>).

2. Signs

All steel signposts, hardware, and related appurtenances, including back of signs, will be either painted or powder coated Federal Standard 595 Color FS 20059 or, if galvanized metal, environmentally stained comparable color. Aluminum signs not able to be environmentally stained will need to be filmed, laminated or painted.

Exception: : Where highways are not designated as scenic or historic byways, or in non-visually significant highways, back of signs will not be painted, filmed, laminated or stained. <https://www.codot.gov/travel/scenic-byways>

3. Guardrail

- a. Weathering steel is no longer recommended as an option for roadside barriers and bridge rails in areas with use of winter deicer chemicals. Galvanized steel guardrail and hardware, shall have environmental stain finish, powder coated with Federal Standard 595 Color FS 200059 or another low contrasting guardrail with the surrounding natural environment, are specified on all new and replacement guardrail installations within USFS and BLM boundaries.
- b. Post color will be either natural wood or galvanized with stained finish or another low contrasting finish with the surrounding natural environment.
- c. Painting exception: To maintain color consistency with existing painted guardrail, hardware, and posts, any elements being replaced must be painted to match the adjacent guardrail, hardware, or posts. The guardrail, hardware and posts must be painted Federal Standard 595 Color FS 20059.
- d. Weathering exception: To maintain color consistency with existing weathered guardrail, hardware, and posts, any elements being replaced must have an environmental stain finish to match the adjacent guardrail, hardware, or posts.
- e. To maintain color consistency with existing cable rail, hardware, and posts, any elements being replaced must match the adjacent cable rail and posts. Cable rail and all associated hardware that was previously FS brown (Federal Standard 595 Color FS 20059) or stained must match the adjacent cable rail and posts. Cable rail and all associated hardware environmental stain will be replaced with cable rail of the same color.

4. Bridges, Bridge Railings, Steel Sign-Posts, Road-Closure Gates, and Fences

- a. Certain steel structures are either unavailable or are not specified with low-contrasting steel treatment relative to the surrounding natural environment. In these cases, structures and components will be treated with a metal staining product or painted Federal Standard 595 Color FS 20059 (dark brown).
- b. To maintain color consistency, if replacing bridges, bridge railings, steel sign-posts, road closure gates, or fences, any replacement components must match the existing adjacent features.
- c. Road closure gates will follow CDOT M-607-15 road closure gate. The light pole that the gate is attached to will follow Section 10 of this appendix, *Transportation Lighting and Illumination*.

5. ITS Equipment
 - a. Federal Standard 595 Color FS 20059 (dark brown) or Federal Standard 595 Color 30227 (light brown) or as determined by size, scope and scale of the structure or installation being treated.
 - b. Color will be applied to all suitable components (tower and light pole, electrical cabinets, swing arm elbow, support towers, steel mounting post, etc.).
6. Tunnel Portal Entrances and Associated Tunnel Structures
 - a. Any portal infrastructure repair will match the existing color, texture, and character for concrete, metal structures, and brick.
 - b. Ventilation structures will minimize visual impacts through color selection, materials, placement, and landscape screening.
7. Rock Cuts
 - a. Visible half cast will not be permitted on USFS or BLM land covered under this Memorandum of Understanding.
 - b. Rock cuts will seek to mimic the natural surroundings in angle and texture.
 - c. All rock cuts will receive stain to match the surrounding conditions.
8. Rockfall Mesh, Mechanically Stabilized Earth (MSE) block, and All Exposed Above Ground Associated Hardware
 - a. Rockfall mesh will be colored to blend into the contacting rock face.
 - b. Other wall types including MSE block may be encountered on maintenance projects. If MSE block is replaced within USFS or BLM boundaries, the new MSE block color will be selected to most closely match the existing MSE block.
 - c. New MSE block must be stained to match the weathered appearance of the existing block.
9. Earthwork and Embankments
 - a. A consistent slope should not be used for a longitudinal length of greater than 150 feet.
 - b. Limit all fill slopes and cut slopes to 2.5:1 (H:V) maximum when feasible. Steeper slopes may be accepted if environmental impacts are minimized. Limit physical disturbance to less than 40 vertical feet from the edge of pavement. If disturbance would be more than 40 vertical feet, a retaining wall will be constructed.
 - c. Round top and bottom of the slope to provide a stable area for revegetation and transition the embankment back into the natural grade. See CDOT's M-Standard Project Special Detail for minimum slope rounding [D-203-3](#). Link to pdf: https://www.codot.gov/business/designsupport/2019-and-2012-m-standards/2019-m-standards-plans/2019-project-special-details/2019_m_standards_project_special_details_index
 - d. Soften transitions by laying back the slopes more at the ends of the cuts and fills than in the middle.
 - e. Use a warped or variable slope technique in areas where the terrain is rolling.

- f. Replicate the diversity of natural slope conditions in new earthwork, to the extent possible.

10. Boulders, Riprap and Talus Slopes

- a. All boulder placement will be field directed by CDOT landscape architect who will coordinate with USFS or BLM landscape architect. Contact the CDOT landscape architect at least 7 days prior to work to schedule boulder placement coordination.
- b. Talus slope material or riprap will match the existing rock in color, texture and rock typology. Talus slopes will appear natural and not engineered. Horizontal sides will be random. Location, size, and appearance will be field directed by CDOT landscape architect who will coordinate with USFS or BLM landscape architect.

11. Transportation Lighting and Illumination

- a. Use durable, powder-coated color finish on all light poles and fixtures to match the existing corridor color (Federal Standard 595 Color FS 20059 [dark brown]).
- b. Contact CDOT landscape architect to coordinate replacement fixture aesthetics.

12. Native Plant Revegetation

- a. CDOT Procedural Directive 503.1 will be followed for all revegetation activity.
- b. When constructing new or rehabilitating existing, owned, or leased facilities, or when landscaping improvements are otherwise planned, CDOT maintenance and post construction activities will follow Section VII, Vegetation, of the Council on Environmental Quality (CEQ) [Guidance for Federal Agencies on Sustainable Practices for Designed Landscapes](#) issued on October 31, 2011.
- c. FHWA/CDOT, in coordination with USFS and BLM, will coordinate on a plan to complete landscape establishment and noxious weed management.
- d. [Colorado Senate Bill 40](#) will be followed for all riparian revegetation replacement.
- e. Landscape reclamation includes removing any unwanted material, regrading to blend into the natural undisturbed surrounding landscape, and revegetate .
- f. Where possible, avoid straight edges when removing trees. The edges should be designed using a variable density cutting (feathering) technique to create a more natural edge that blends into the existing vegetation.

13. Avalanche Control Equipment

- a. Plans for all above ground avalanche structures and associated hardware will be reviewed by the CDOT landscape architect.
- b. All structures will blend with and/or complement the color, design and/or character of the surrounding context.
- c. If multiple structures or components to avalanche control equipment are located in a general area, those features should be co-located (i.e., grouped together) where feasible.
- d. Mountaintop or ridgeline siting will be avoided, or the related visual impacts will be eliminated through design and landscaping.

APPENDIX A-4

LANDSCAPE, AESTHETICS, AND VISUAL REFERENCES

BLM Sources:

Manual 8400: Visual Resource Management. 1984.

https://www.blm.gov/sites/blm.gov/files/program_recreation_visual%20resource%20management_quick%20link_BLM%20Manual%20Section%208400%20-%20Visual%20Resource%20Management.pdf

Handbook H-8431-1: Visual Resource Contrast Rating. 1986.

https://www.blm.gov/sites/blm.gov/files/program_recreation_visual%20resource%20management_quick%20link_BLM%20Handbook%20H-8431-1%2C%20Visual%20Resource%20Contrast%20Rating.pdf

Handbook H-8410-1: Visual Resource Inventory. 1986.

https://www.blm.gov/sites/blm.gov/files/program_recreation_visual%20resource%20management_quick%20link_%20BLM%20Handbook%20H-8410-1,%20Visual%20Resource%20Inventory.pdf

Guidelines for a Quality Built Environment (First Edition). 2010.

<https://www.ntc.blm.gov/krc/uploads/972/BLM%20Guidelines%20for%20a%20Quality%20Built%20Environment.pdf>

Implementation of the Guidelines for a Quality Built Environment. 2011.

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CDOT Sources:

Erosion Control and Stormwater Quality Guide. 2002.

<https://www.codot.gov/programs/environmental/landscape-architecture/erosion-storm-quality>

Colorado Scenic Byways

<https://www.codot.gov/travel/scenic-byways>

Landscape Architecture Manual. 2014, Revised 2020

<https://www.codot.gov/programs/environmental/landscape-architecture/landscape-architecture-manual-2020.pdf>

Visual Impact Assessment Guidelines. 2020.

https://www.codot.gov/programs/environmental/landscape-architecture/visual-resources/assets/via-guidelines_revised_09252020.pdf

FHWA Sources:

United States Forest Service Visual Resource Management Overview

<https://blmwyomingvisual.anl.gov/vr-overview/usfs/>

USFS Sources:

Landscape Aesthetics: A Handbook for Scenery Management (Handbook No. 701). 1995.

[https://blmwyomingvisual.anl.gov/docs/Landscape%20Aesthetics%20\(AH-701\).pdf](https://blmwyomingvisual.anl.gov/docs/Landscape%20Aesthetics%20(AH-701).pdf)

The Built Environment Image Guide for the National Forests and Grasslands No. FS-710. 2001.

http://www.fs.fed.us/recreation/programs/beig/01_frontmatter.pdf

APPENDIX A-5

TYPICAL SIGNS



BDY-1



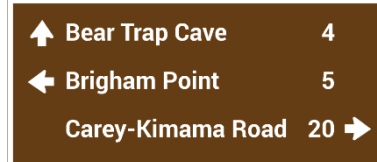
BDY-2



BDY-3



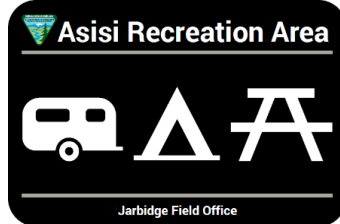
ACC-1



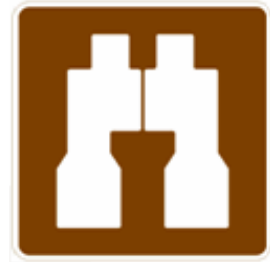
ACC-2



INF-1



INF-2



WW-1



SB-1



RD-1



RD-2

APPENDIX A-6 CONSULTATION FOR THIRD-PARTY OCCUPANCY OF CDOT RIGHT-OF-WAY OVER FEDERAL LANDS

There are four variations of third-party requests for access or use of CDOT ROW over Federal lands. All require coordination between the USFS/BLM and CDOT to determine that the proposed occupancy does not adversely affect the safety, operations, and maintenance of the highway or adversely impact the management and use of the adjoining or underlying Federal estate. The remaining request type usually requires only the review and approval by CDOT. Coordination between agencies should occur through the local office.

Request Type 1: The first type of third-party request is for modifications or additions to the CDOT transportation facility. Examples include, but are not limited to, bike and pedestrian paths or recreational facilities appurtenant or connected to the highway; CDOT access permits; pedestrian underpasses; or bridge structures.

If the request type falls under the category of a third party CDOT access permit, CDOT will coordinate with the USFS/BLM and be responsible for fulfilling requirements under state law.

General outline of review process for Request Type 1: Actual Improvements to CDOT Facilities

1. Third Party submits proposal to USFS/BLM.
2. USFS or BLM screens the proposal to determine if the proposal passes the initial special use or grant screening process. If proposal passes screening, USFS/BLM accepts the proposal as an application. USFS/BLM forwards the application to CDOT Region ROW Office for review and to conceptually approve that the proposed occupancy does not adversely affect the safety, operations and maintenance of the highway.
3. Upon notification of conceptual approval from CDOT, USFS/BLM requests the Third Party prepare more detailed documents required for CDOT, USFS/BLM and FHWA (when request involves Interstate ROW) for NEPA analysis.
4. Third Party submits the following to USFS/BLM:
 - a. Location Maps
 - b. Construction Plans
 - c. Site Photos
 - d. All available environmental documents
5. USFS/BLM forwards applicant information to CDOT Region ROW Office.
6. USFS/BLM conducts NEPA in consultation with CDOT. As NEPA requires, USFS/BLM, CDOT and Third Party will work in concert to refine the project design.
7. CDOT Region ROW determines the appropriate approval documents.
 - a. Access Control Line Crossing License
 - b. License to cover use and maintenance of improvements
 - c. CDOT Special Use Permit for construction

8. If the request involves Interstate ROW, CDOT Property Management will request FHWA approval of:
 - a. Access Control Line Crossing License (Requires Form 128 Environmental Clearance, prepared from USFS/BLM NEPA document)
 - b. License to cover use and maintenance of improvements (Requires Form 128 Environmental Clearance)
9. CDOT Region ROW Office will issue all necessary CDOT permits/licenses to Third Party.
10. CDOT Property Management will forward concurrence letter to USFS/BLM, along with all applicable CDOT permits and the executed access control line license, if necessary.
11. USFS/BLM will make a NEPA decision. If the decision is to authorize the use, the USFS will issue the Special Use Permit or the BLM will issue the right-of-way grant, including any CDOT stipulations in the operation and maintenance plan and will forward a copy of the executed permit to CDOT.

Request Types 2 and 3: The second type of third-party request is long-term or permanent improvements constructed within the ROW, but not physically impacting the CDOT facility. Examples of this type of request include, but are not limited to, cell towers, utilities, driveways to private property, detached bike and pedestrian paths, or recreational facilities.

The third type of third-party request is for temporary ingress and egress to, and from, the ROW (crossing the highway access control line). Examples of this type of request include, but are not limited to, temporary logging roads or other motorized or non-motorized access to and from NFS land and public land.

General outline of review process for Request Type 2: Permanent Improvements within the ROW, with no Direct Impact to the CDOT Transportation Facility; and Request Type 3: Ingress and Egress to and From CDOT Transportation Facility:

1. Third Party submits proposal to USFS/BLM.
2. USFS or BLM screens the proposal to determine if the proposal passes the initial special use or grant screening process. If proposal passes screening, USFS/BLM accepts the proposal as an application. USFS/BLM forwards the application to CDOT Region ROW Office for review, and to conceptually approve that the proposed occupancy does not adversely affect the safety, operations and maintenance of the highway.
3. Upon notification of conceptual approval from CDOT, USFS/BLM requests the Third Party prepare more detailed documents required for CDOT, USFS/BLM and FHWA (when request involves Interstate ROW) for NEPA analysis.
4. Third Party submits the following to USFS/BLM:
 - a. Location Maps
 - b. Construction Plans
 - c. Site Photos

- d. All Available Environmental Documents
5. USFS/BLM forwards application information to CDOT Region ROW Office.
6. USFS/BLM conducts NEPA. If the request involves an access control line Crossing on an interstate highway, then NEPA is done in consultation with CDOT. As NEPA requires, USFS/BLM, CDOT and Third Party will work in concert to refine the project design.
7. CDOT Region Office determines impacts to the highway facility and drafts necessary stipulations and forwards them to CDOT Property Management.
8. CDOT Property Management will draft concurrence letter with the necessary stipulations.
9. If the request involves an access control line crossing, an access control line crossing License will be drafted:
 - a. If the request involves Interstate ROW, Property Management will request FHWA approval of an Access Control Line Crossing License (Requires Form 128 Environmental Clearance prepared from USFS/BLM NEPA document).
 - b. CDOT Region ROW Office will issue the A-Line Control licenses to Third Party.
10. CDOT Property Management will forward concurrence letter to USFS/BLM, along with the executed A-line license, if necessary
11. USFS/BLM will make a NEPA decision. If the decision is to authorize the use, the USFS will issue the Special Use Permit or the BLM will issue the grant, along with CDOT stipulations for the maintenance and operation plan and will forward a copy of the executed permit to CDOT.

Request Type 4: The fourth type of third-party request is when the requestor wishes to use only the highway for a temporary use. If requests would not involve access to NFS/BLM lands (e.g., aid stations or use of USFS/BLM facilities) or impacts to USFS/BLM personnel (e.g., trash from events or USFS/BLM personnel providing traffic control outside the CDOT ROW), then CDOT would follow the process below. These requests should be resolved at the local level.

General outline of review process for Request Type 4: Use of CDOT Transportation Facility Only

1. Third Party submits request for use of ROW to CDOT Region ROW office.
2. CDOT Region ROW Office to Determine Need for/Request Appropriate Approval Documents
 - a. CDOT Special Use Permits and/or CSP issues a Special Event Permit
 - b. CDOT involves USFS and BLM as necessary
3. CDOT issues a Special Use Permit for event or CSP issues a Special Event Permit.

If the proposed activity would result in impacts to NFS/BLM lands or USFS/BLM personnel, then a USFS or BLM authorization would be necessary. Requests that include access to USFS/BLM land or facilities or that will impact USFS/BLM staff will be resolved at the local level. Examples

include but are not limited to: bike or pedestrian races solely on the highway, automobile rallies, and motorcycle events.

"NOTE: The I-70 bike path has unique circumstances where some of it is inside the HED and much of it is outside the HED in multiple jurisdictions; there are also differences in maintenance agreements on one side of the pass versus the other side so that the entire path is not addressed by this MOU. Due to these unique circumstances, it is suggested that the local offices of the USFS, BLM, FHWA, CDOT and appropriate counties coordinate a separate MOU to address this complex use."

APPENDIX A-7 LETTER OF CONSENT EXAMPLE FOR BLM PROJECTS

(FOR USFS LANDS, NEED TO FOLLOW THE NATIONAL MOU OTHER USFS STIPULATIONS)



**United States Department of the
Interior**



**BUREAU OF LAND MANAGEMENT
TRES RIOS FIELD OFFICE
29211 Highway 184
Dolores, CO 81323
www.blm.gov/co/st/en/fo/sjplc.html**

In Reply Refer To:

May 7, 2008

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. Chris Horn, Acting Division Administrator
U. S. Department of Transportation
Federal Highway Administration
Colorado Federal Aid Division
12300 W. Dakota Avenue, Ste. 180
Lakewood, CO 80228

LETTER OF CONSENT

Dear Mr. Horn:

Request has been received for the appropriation of public lands of the United States within the State of Colorado pursuant to U.S.C. Title 23: Highways, Section 317, for the purpose of issuing a right-of-way use document to the Colorado Department of Transportation (CDOT). The project is for construction of auxiliary lanes on U.S. Highway 160, west of Pagosa Springs near Hurt Drive, Project Number NH 1602-133, Project Code 18618, Parcel RW-3.

The area requested lies in the:

New Mexico Principal Meridian
T. 34 N., R. 3 W., Sec 10, Parcel RW-3(AKA SW1/4 SW1/4)

The subject land is shown on the right-of-way plans titled: Department of Transportation, State of Colorado, Right of Way Plan of Proposed Federal Aid Project No. NH 1602-133, U.S. Highway No. 160, Archuleta County, Right of Way Project Code No. 18618, sheet 1.01 of 24 total sheets, dated 7-30-12, prepared by TCJ.

In accordance with the provision of the Interagency Agreement between the Bureau of Land Management (BLM) and the Federal Highway Administration (FHWA), the BLM agrees to the appropriation and transfer of the above-described land for the foregoing purpose subject to the following stipulations which must be included in the right-of-way document issued to CDOT, agreed upon by the State, and enforced by the FHWA.

1. If outstanding valid claims exist on the date of this use authorization, the State agency shall obtain such permission as may be necessary due to any such claims.
2. The use right herein authorized shall terminate 10 years, or sooner if agreed upon, from the date of execution of the transfer document by FHWA to the State in the event construction of the highway project has not been initiated during such period.
3. The use right herein authorized is limited to the described right-of-way and the space above and below for highway purposes and does not include any use rights for non-highway purposes.
4. All surface disturbing activities and all facilities or improvements associated with the construction, operation and maintenance of the highway shall be conducted within the limits of the highway right-of-way as detailed in the above referenced highway plans.
5. BLM retains the right to use, or authorize use on, any portion of the right-of-way for non-highway purposes provided such use would not interfere with the highway or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and the State agency concerned shall be consulted prior to exercising such rights.
6. All disturbed areas shall be vegetated and kept vegetated with suitable native species. Water bars, ditches, or other preventive measures may be required. This provision also applies to slopes that are reshaped following slides which may occur during or after construction.
7. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way.
8. No sites for highway construction, operation or maintenance facilities, storage yards, camps or disposal areas may be established within the right-of-way without prior approval of the BLM.
9. Upon completion of the project, all existing road approaches on the Public Lands shall remain open and accessible. Where fencing is installed, 16' gates shall be installed on the road approaches, with the exception of the County roads.

10. Upon completion of construction, fences shall be installed on all Public Lands in the project area. The type of fencing used shall be CDOT's "Barbed Wire Fence with Wooden Posts, Standard Installation" as described in CDOT's Standard Plan No. M-607-1, Wire Fences and Gates, Sheet No. 2, enclosed as Exhibit A. However, the top wire on the fence shall be smooth, not barbed, to create a more wildlife friendly fence.

11. Exhibit B, Migratory Bird Stipulations, is enclosed and incorporated herein by its reference.

If you have questions or concerns regarding this letter, please contact Jennifer Jardine, Realty Specialist, at 970 385-1224

Sincerely,

Brad Dodd
Associate Field Office Manager
Tres Rios Field Office

Enclosures:

Exhibit A: CDOT, Standard Plan No. M-607-1, Wire Fences and Gates, Sheet No. 2

Exhibit B: Migratory Bird Stipulations

Letter of Concurrence