

RIGHT OF WAY MANUAL

CHAPTER 7

PROPERTY MANAGEMENT

PROCEDURES AND GENERAL INFORMATION

**COLORADO DEPARTMENT OF
TRANSPORTATION**

STATE OF COLORADO

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Section 1 – INTRODUCTION

The purpose of this manual is to clarify the existing statutes, rules, policies, and procedures related to the property management program. This manual is also to establish uniform procedures for each of the property management activities and their implementation for an effective program. The acquiring agency is responsible for the preservation of improvements and for reasonable safety measures relative to the preservation of the acquired property and protection of lawful occupants when the agency has acquired ownership and possession of property.

Federal regulations for the property management function are found in 23 CFR Part 710. These regulations prescribe FHWA policies and procedures for the management of real property acquired in connection with Federal-aid highway projects. The policies in 23 CFR Part 710 apply to the State and all political subdivisions that manage real property acquired for any highway or highway related project in which Federal funds will participate in any part of the right of way costs of the project. The FHWA may participate in net costs incurred in leasing, rental, maintenance, disposal of improvements, protection, rodent control, and clearance of real property.

7.1.1 – Authority

23 CFR, Part 710, Subpart D, Real Property Management
43-1-114, Colorado Revised Statutes, Highway Operations and Maintenance Division
43-1-210, Colorado Revised Statutes, Acquisition and Disposition of Property
24-30-1300, Colorado Revised Statutes, Part 13, State Buildings

7.1.2 – CDOT Delegation

Section 43-1-210, C.R.S. gives the Department of Transportation, through the Chief Engineer, the authority to lease remainder and future right of way properties and to dispose of excess property approved by the Transportation Commission or its designee for certain categories of property. Section 43-1-114(3), C.R.S. gives the Chief Engineer the authority to enter into agreements and to delegate this authority on certain agreements which may now be approved directly by the Maintenance and Operations Branch Manager or his superiors:

- Leases of project related excess/remainder and future right of way parcels;
- License agreements involving real estate or access to the state highway system;
- Agreements to sell real estate to the successful bidder on projects which have been previously approved by the Transportation Commission or its designee;
- Agreements to hire auctioneers for the disposal of real estate;
- Contract for the sale of improvements acquired on right of way projects sold at auction or sealed bid;
- Bill of sale for salvage property on right of way projects.

The delegation for those items listed above specifically excludes the signature authority for Petitions of Annexation, Granting of Easements, Quit Claim Deeds for the sale of property, Changing the Department's Boundaries, or Access to the highway system. This delegation of authority is revocable and the Chief Engineer retains the authority to rescind this delegation, in writing, at any time.

7.1.3 – FHWA Delegation

A change in the usage of the right of way requires FHWA approval. This requirement is found within 23 U.S.C. 111 and specifically 23 C.F.R. 1.23, which requires all rights of way be devoted exclusively to public highway purposes except those approved by the Administrator. 23 C.F.R 710.405(b) requires the State obtain prior FHWA approval for permanent occupancy or use of Interstate system right of way. This includes such activities

as leasing, maintenance, and disposal of property rights, including access control. The Federal Highway Administration is a very interested party on the use and disposal of right of way properties on all other highways, particularly those roads that are part of the National Highway System (NHS). No requests will be approved without completing the appropriate environmental clearances.

Except for the Interstate system, the Department and the FHWA will agree on the scope of property related oversight and approval actions that the FHWA will be responsible for. The most recent Oversight Agreement will indicate for which non-Interstate Federal-aid requests require submission of materials for review and approval.

If the request for change in usage or disposal is on the Interstate System, a complete package should be submitted to the Property Management Section. The Property Management Section will attach a cover letter to the package with its recommendation, and forward the package to FHWA for consideration and approval.

If the request is located on any other National Highway System or State Highway System facility, the complete package will be reviewed and approved by the Property Management Program Manager as FHWA's delegee. FHWA will be consulted as an interested party during the approval process. The following issues must be addressed prior to granting approval for the proposed disposal or usage of the right of way:

- The right of way is not needed presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility;
- The integrity and safety of the highway facility constructed elsewhere on the right of way is insured;
- There is no decrease in the access control to the highway facility constructed elsewhere on the right of way;
- Where a proposed use requires changes to the existing facility, such changes shall be provided without cost to FHWA;
- The proposed use must conform to the current FHWA design standards and safety criteria for the functional classification of the facility upon which the usage occurs.

7.1.4 – Organization

Property Management functions are done by both Central Office and Region staff. A general breakdown of responsibilities are listed below:

- The Property Management Section in the Central Office is responsible for maintaining a complete inventory of all excess, remainder, office, and maintenance site parcels including improvements. The Property Management Program Manager manages this Section with the assistance of existing staff and coordination with the appropriate Region personnel. The Property Management staff in the Central Office manage all properties turned over by the Regions to the Section for rental and/or disposal.
- The Hazardous Materials Unit in the Central Office is responsible for the clearing and/or demolition of project property improvements. This also includes asbestos inspection and abatement, lead based paint inspection and lead abatement, air monitoring/final clearances, underground storage tank removal, and cleanup of petroleum contamination or hazardous materials.
- The Region property management functions are supervised by the Region Right of Way Manager, or Maintenance Superintendent, with the assistance of their respective staffs for management of

properties acquired but not turned over to the Central Office Property Management Section or the Hazardous Materials Unit. Each Region will provide an updated listing annually, not later than December 31, of those excess and remainder parcels acquired which are no longer needed or suitable for retention in order to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the highway to the Property Management Section. Procedural Directive 1300.1 outlines the need and process whereby each Region reviews and evaluates its property for any properties no longer needed and also after each construction project is completed to determine if any change in design has left the Department with excess or remainder right of way. Once the annual report from each Region is completed, the Property Management Section updates the database of excess and remainder properties so an accurate statewide inventory can be maintained. This inventory is provided annually to General Support Service's Real Estate Services Program, for their annual report required by §24-30-1303.5, C.R.S.

7.1.5 – Definitions

Abandonment: When a portion of a state highway is relocated and, because of the relocation, a portion of the route as it existed before the relocation is, in the opinion of the Transportation Commission, no longer necessary as a state highway, such portion shall be considered as abandoned.

Access Rights: The right of ingress and egress from a property that abuts a street or highway.

Airspace: That space located above, at, or below the transportation facility's established grade line, lying within the approved horizontal limits of the approved right of way boundaries.

Asset Record: A Record for each General Ledger Property and its respective improvements which includes an indication of the value placed on that property at its acquisition or conversion to a general ledger property.

Capital Improvements: Improvements including additions, extensions, renewals, replacements, or betterments to the general ledger property that changes the building size, increases the use, value, or quality of the building or building's life.

Controlled Maintenance: Corrective repairs, improvements or replacement for existing facilities such as: painting, replacing or repairing heating, air conditioners, roofs, floors, windows, doors, wiring, plumbing, etc. Controlled maintenance projects funded by Region, Branch, or Center for Facilities Management operating funds must be approved by the Manager of the Center for Facilities Management or the Highway Maintenance Superintendent prior to the construction of all projects. When any of the above is to be done by CDOT employees the cost of labor, equipment and materials must be included.

Disposal: The sale of real property or rights therein, including access or air rights, when no longer needed for highway right of way or other activities eligible for funding under Title 23, U.S.C. Disposal as it relates to the Hazardous Materials Unit is the removal, proper transport and manifest of various bags, drums, or other receptacles containing hazardous and/or non-hazardous materials to the appropriate EPA approved landfill.

Excess Fixed Asset Property: This includes all property acquired outside of the highway right of way other than remainder property. Fixed asset property includes maintenance sites, office buildings, and employee housing units that were acquired with property funds budgeted through the Transportation Commission or project property converted to one of the above uses where the federal pro rata share has been credited back to FHWA. Funds from the sale of fixed asset property must be credited back to the Property Program and then will be made available for Property Projects, based on Property Committee approval procedures.

Excess Project Property: All property acquired as highway right of way, which lies inside of the right of way lines of the original project, remainder property, or property abandoned or otherwise transferred to cities, counties, and towns or political subdivisions for roadway, greenbelt, sanitary, or other purposes that has reverted to the Department. Excess project property also includes rest areas, port of entry sites, park-n-ride sites, and maintenance sites that were acquired as highway right of way. Funds from the sale of excess project property, acquired as right of way, must be credited to another active right of way project eligible for Title 23 funding.

Exchange of Property: The transferring of property, including improvements, water rights, land, or interests in land or water rights, by the Department to another person in consideration for the transfer to the Department of other property, including improvements, water rights, land, or interests in land or water rights, cash, or services or other consideration thereof; except that any cash or services received may not exceed fifty percent of the total value of the consideration.

Fair Market Value: For real property disposals and leases, fair market value may represent either: (1) the amount of the approved appraisal or value finding, (2) the negotiated price, or (3) the highest bid received at a public sale.

General Ledger Property: General Ledger Property is that property paid for by CDOT funds not programmed for highway projects.

Initial Site Assessment (ISA): A review of historic and current land use at the property to identify any past or current activities that may have resulted in the production and deposition of hazardous waste and/or use of hazardous material and substances that may have been or are currently being improperly handled or stored. May also include Phase I environmental reports.

National Highway System, (NHS): The National Highway System as defined in 23 U.S.C. 103(b).

Preliminary Site Investigation (PSI): Verifies the potential findings of the ISA and examines the site for further information about its condition. The PSI provides an estimate of contamination and estimated cost to remediate the contamination. May also include Phase II environmental reports.

Project Property: Property paid for by highway project funds.

Property Committee: A committee composed of the Manager of the Center for Facilities Management, the Region Transportation Directors, the Highway Maintenance Superintendent Team and chaired by the Chief Engineer, assisted by appropriate staff as necessary. The Committee will review property requests, draft the Five-Year Property Plan, make annual property recommendations to the Executive Management Team (EMT), and monitor annual appropriations and expenditures.

Relinquishment: The conveyance of a portion of a highway right of way or facility by a State highway department to another government agency for continued transportation use. (See 23 CFR Part 620, Subpart B.)

Remainder: Whenever a part of a parcel of land is to be taken for state highway purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims of litigation concerning severance or other damage, the Department of Transportation may acquire by purchase or condemnation the whole parcel; except that the owner of said parcel may, at the owner's option, retain the mineral or gravel interests therein. The Department of Transportation may sell or lease the remainder of said parcel or may exchange the same for other property needed for state highway purposes.

Salvage Value: The probable sales price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of uses and purposes for which it is adaptable and capable of being

used including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

Structure: Real property in the nature of any building attached to the land. Normally, a structure is considered to be permanently affixed to such land.

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Section 2 – ACQUISITION PHASE PROPERTY MANAGEMENT

The most basic function of property management, either by the Central Office or Region staff, during this phase of a project is the clearance of the acquired right of way. This not only infers the vacation of structures, but also the removal of pests, and structures and other improvements (utilities, wells, etc.), and hazardous wastes, that are in the way of constructing the project. Clearance of the right of way may include "clearing and grubbing" which is the removal of all vegetation and the preparation for grading, depending upon whether this is included as a construction bid item.

7.2.1 – Project Land and Improvements

This type of property is acquired as a portion of the right of way project and is declared as an excess or remainder parcel. All property will be acquired in accordance with the procedures outlined in Chapter 4 (Acquisition) of the Right of Way Manual. When this property is acquired in such a way as to be classified as project property (rentals, joint use, etc.), the Property Management Section will add it to the Excess Property Inventory. In an effort to provide accountability of property acquired by purchase on right of way projects, the following procedures should be observed:

1. For businesses, an inventory of real property will be conducted by the Appraisal Contract Administrator and CDOT Form 433 completed. The personal property inventory is completed by the Region at a later date.
2. The inventory is provided to the property owner, Region, appraiser, Property Management Program Manager, Acquisition Relocation Unit Leader, and the main project file. The appraiser values realty items in the appraisal. Those items designated as realty will be purchased and kept with the property. Fluctuating inventory (stock in trade) is not considered a part of this inventory.
3. When acquisition of a parcel is completed and the property is turned over to the Property Management Section, the Region will submit their inventory record (CDOT Form 1016) to the Property Management Section under cover of a memorandum with a check list for disposal or lease request form explaining the current status of the property including such items as condition of the improvements, whether the property is occupied or vacant, whether the property has been winterized, status of utilities, and whether it is to be leased, demolished, sold, transferred, whether there are any drums, old batteries, or other suspicious containers remaining on the property, etc.
4. The inventory, CDOT Form 1016, will be reviewed by the Region and Property Management in the Central Office and an on-site inspection will be conducted by the Region before the property is turned over to the Property Management Section. Any discrepancies in the inventory must be documented in writing for the project file by the Region. The keys to the property and responsibility for the property will then be assumed by the Property Management Section.

7.2.2 – Demolition

Disposing of acquired improvements may be considered a right of way item when the clearing is performed separately from the contract for physical construction. On some projects, it will be more expedient to contract for right of way clearance separately from the construction contract because of the size of the project, the large number of improvements to be removed, and the length of time between the acquisition of the improvements and the beginning of construction of the project.

1. Demolition by Contractor

- If this method is used to dispose of improvements, and the project has federal funds, approval has been granted through authorization of function 3114. The Federal requirement of wage determinations under the Davis-Bacon Act will prevail for demolition contracts that exceed \$2,000 and are within 90 days of construction. Form 118s must be attached to the demolition contractor's invoice certifying their payroll for compliance. The above does not apply to demolition contracts under \$2,000. If the improvements have salvage value, the demolition contractor's bid shall reflect this salvage value by a reduction in the overall bid for demolition services whenever possible.
- Required Information from the Region to Initiate a Request for Demolition or Inspection
- The Region Right of Way Acquisition Agent will send a package to the Central Office, Property Management Section for review by the Central Office Project Manager within 24 hours of receipt so any additional information can be requested, as may be necessary, to proceed with site clearing. The demolition package requires the following items:
 - A complete, current, and legible set of right of way plans with the building locations (septic tanks and wells) identified by tabs on the outside of the plans, or removable notes on each page of the plans, and a copy of the FHWA signed CDOT Form 418.
 - A copy of the most current appraisal report for each parcel to be cleared.
 - A copy of the most current ISA, PSI, or relevant environmental report(s) on file at the Region that include those parcels being cleared.
 - Name and phone number of the Acquisition Agent (please include all numbers, such as office number, pager number, and/or cell number).
 - Name and phone number of the Construction Engineer that will be managing the construction project (please include all numbers, such as office number, pager number, and/or cell number).
 - Name and phone number of the EEO Representative that should be contacted to obtain the appropriate UDBE contract goal.
 - A cover letter listing each address, parcel number, county the project is in, and a complete accounting coding string that includes the project number, project code, function, object and sub-object, and phase. The cover letter must also include any special instructions that would apply to each parcel included in the specifications, with the exception of special instructions that should come from the Construction Engineer. The Central Office Project Manager will contact the Construction Engineer to obtain these special instructions. Special instructions or conditions that should be included in the request from the Region Right of Way Section would include, but not be limited to, septic tank closures or removals, any wells that should be abandoned, the status of ALL utilities and instructions regarding meter removal, shared utilities and/or septic systems/wells (the Acquisition Agent would be responsible for making sure that payment of all utilities is current and that they have all been transferred into CDOT's name). Ad and construction start dates must also be included in the cover letter.
- NOTE: THIS PROCESS WILL NOT REQUIRE FILLING OUT THE DISPOSAL REQUEST FORM PREVIOUSLY USED FOR PROPERTY DISPOSAL. FOR ASBESTOS INSPECTION AND ABATEMENT SERVICES, PLEASE SEND AN E-MAIL TO THE CENTRAL OFFICE PROPERTY MANAGEMENT SECTION, INCLUDING ADDRESSES, PARCEL NUMBERS, COMPLETE ACCOUNTING CODING, DATE THE PROPERTY WILL BE

AVAILABLE FOR INSPECTION, AND KEY OR LOCK BOX INFORMATION.

- Required from the Region Construction Engineer
 - The Central Office Property Management Project Manager will contact the Region Construction Engineer to obtain additional information relevant to the specific project. Information likely to be requested would include, but not be limited to, the following:
 - Whether concrete foundations/footers should be removed or can be used as backfill.
 - The depth of removal required on well casings and whether septic tanks should be abandoned in place or removed.
 - Trees and bushes that should either be removed (including/or not including the stump) or preserved.
 - Traffic control.
 - Construction schedule and coordination of the demolition work.
 - Project specific standards and specifications that should be included with the bid documents.
 - Utility relocations and agreements with local agencies or jurisdictions.
 - Coordinate special handling and disposal of materials on the project that may reduce time and cost.
 - Special instructions.
- Assembled Specifications Package and Posting
 - Based on information obtained from the Region Acquisition Agent and Project Construction Engineer, the Central Office Property Management Project Manager will assemble the complete specifications package and establish appropriate unit prices, based on the specific demolition work/site clearing required. Once all the necessary information has been received, it takes up to two weeks to assemble the bid package for submission to the Central Office Contracts and Agreements Branch. The Central Office Contracts and Agreements Branch require that all packages be submitted to its office no later than 9:00 a.m. on the Monday morning prior to the Thursday posting date. It is recommended that the package be submitted 10 calendar days prior to the posting/ advertising date to avoid advertising or posting delays. Bids are only posted and opened on Thursdays.
 - A copy of the package will be delivered to the Central Office, Contracts and Agreements Branch, Estimates Unit, for purposes of establishing an appropriate estimate for the work to be done. If, for any reason, the estimate is not within 10% of one or more bids, and the variance is not justifiable, the bids may be rejected and require the project to be posted a second time.
 - While the Central Office Estimates Unit is working on the estimate, the package is delivered to Central Office Contracts and Agreements Branch, along with the completed request for authorization to advertise, and the project is advertised on the CDOT Project website and published in the Daily Journal for a period of three weeks.
 - A minimum of 20 sets of bid plans (packages) are assembled by the Central Office Reproduction Section before the project is posted. The bid plan packages must be made available for purchase by all interested bidders and are available for purchase from the Central Office Bid Plans Room at CDOT Headquarters. During the three-week bidding period, a mandatory pre-bid meeting will be conducted by the Property Management Project Manager for all bidders interested in bidding on the project. It is important that the Region Acquisition Agent and/or the Construction Project Engineer attend the pre-bid meeting along with the Property Management Project Manager. It

will take an additional one to two weeks (beyond the advertising period) to get the contract executed.

- Asbestos inspections and abatements that are not completed prior to submitting a request for demolition and site clearing will delay the overall time frame by an additional six weeks. If the buildings being demolished are vacant at the time the request is submitted for demolition and site clearing, inspections and abatements can be accomplished during the bidding/contracting portion of the demolition process.

- Changes to the Original Request for Site Clearing
 - The Demolition Contractors that clear sites under the direction of Property Management, are specifically directed to get in and out as quickly as possible. This does not allow for the time it takes to process a change order. For these reasons, change orders are discouraged. If a change order is necessary, the Central Office Property Management Project Manager will initiate the change order. A proposal will be solicited from the demolition contractor, then the demolition contractor and the Central Office Property Management Project Manager will negotiate the additional work to be completed, price and terms. The change order will be based upon these negotiated items and issued upon execution.

- Conditional Site Clearing and Demolition
 - The Central Office, Property Management Section will, under unusual circumstances, request conditional certification for demolition purposes, as necessary to avoid repeated advertising and letting of a demolition project within the same construction project limits. The conditional certification will be requested in accordance with Federal Regulations, for purposes of including in one contract all parcels that require site clearing, although acquisition or the right of occupancy may not be complete on a few remaining parcels.
 - In order to meet the requirements of 49 CFR Part 24 and 23 CFR Part 635.309, as well as statutory and procedural requirements for the authorization to advertise the demolition of improvements on a project, the conditions that must be addressed in writing and submitted with the request for demolition of improvements are as follows:
 - An explanation of the critical need to accelerate the advertisement of the project (to the extent it involves site clearing on parcels not yet acquired, or parcels to which the Department does not yet have the right of occupancy).
 - Where acquisition of a few parcels has not been obtained, a full explanation, and the reasoning relating to each parcel, must be addressed, including identification of each owner, the date an offer was made, a realistic date that possession of each parcel is anticipated, as well as substantiation that the anticipated date of possession is realistic. No improvement will be demolished without, at a minimum, a fully executed "Possession and Use Agreement."
 - Restrictions and "no-work" zones will affect the cost of the demolition project and must be taken at State expense (ie. non-participating).
 - When relocation is involved, and the occupants are still present in the property to be demolished, a written description that identifies the relocation status and assistance that will be provided to the displaced occupant(s) must be set forth in the request.
 - The Central Office Property Management Section will review the request for an additional demolition clearance and forward the request with recommendations to the Central Office Project Development Branch Manager or the Chief Engineer for his/her approval.

- Pre-Qualification
 - All demolition contractors must be pre-qualified by the Central Office Contracts and Agreements office at least 10 days prior to bidding on a project. Pre-qualification is determined by the the Central Office Contracts and Agreements Branch; the Central Office Property Management Section is not involved in the pre-qualification process.

2. Removal by Highway Construction Contractor

When this method is to be used, the Region will inform its design personnel of this decision so that this item can be specified in the construction contract. An estimate should be obtained from an outside contractor to use for comparison purposes with the amount charged under the construction contract. If the asbestos inspection was, or will be handled under a separate contract by the CDOT Project Manager in Hazardous Materials, the demolition specifications contained in the construction contract must include the recovery of all refrigerants from air conditioning/refrigeration appliances, in accordance with AQCC Regulation No. 15 (for information on CFC requirements call 303-692-3177). Whether the asbestos abatement is handled by the Hazardous Materials Unit, or the construction contractor, the Demolition Notification must be signed by the Asbestos Inspector following an abatement. The Demolition Notification (signed only by the inspector) will be provided to the Region, and the construction contractor will be responsible for completing the form with additional information, signing the certification for refrigeration recovery, and submitting the form to the Colorado Department of Public Health and Environment at least 10 business days prior to proceeding with demolition. Demolition Notifications signed by the inspector may certify that the only ACM left in the building is VAT and/or tar-impregnated roofing felt, which could cause concern for a contractor that is not familiar with demolition work. Both materials can be demolished and disposed of with demolition debris, and in those cases where the certification indicates that asbestos containing VAT and/or tar-impregnated roofing felt are the only ACM materials remaining, the certification will also serve as disclosure to the contractor that there are materials in the demolition debris that contain asbestos, and appropriate dust control is required. This type of removal generally costs more, but may be a more efficient option if the project timeframes are restrictive.

Demolition or site clearance requests, including foundation removals, well closures or abandonment, and septic tank removals must be made on the Disposal Request Form provided by the Property Management Section or the Hazardous Materials Unit. The Disposal Request Form contains the necessary information needed to complete site clearance requests without delays. Location maps depicting the location of buildings, foundations, septic tanks, and/or wells that are to be cleared from the site are essential to clearing the site properly.

3. Time of Disposal

Acquired improvements should be removed after they have been permanently vacated and the following is documented in the file:

- There is no probability of their disposition through public sale, salvage, or other means; or
- It is in the public interest because of health, safety, aesthetics, neighborhood preservation, and environmental factors.

7.2.3 – Rodent Control

In all Federal-aid projects the control of rodents and other pests is required by either the Region or Central Office staff. Rodent control is an area where early involvement can make an impact on the success or failure of the activity. Implementation of an effective plan should start no later than the relocation of the first occupant on the project. To be effective in controlling pests and rodents means that

treatment should begin as soon as the occupant first vacates the structure. Before demolition or removal of acquired improvements is undertaken, rodent control measures must be initiated, if necessary.

The Department must determine the need for extermination services through periodic field inspections on urban projects and on rural projects containing garbage dumps, landfills, substantial number of buildings, etc. This inspection is the responsibility of the Region on all properties not turned over to the Property Management Section. Control measures are necessary if evidence exists of rodent infestation of the acquired improvements. The need for rodent control measures must be documented by periodic inspection of the improvements to determine if it is necessary to provide for rodent control. If the inspection shows a need for extermination services, this should be done, under procurement procedures, prior to the demolition or removal of the improvements. If the acquiring agency does not have the expertise to conduct a qualified inspection, a private firm or other State or local agency that is qualified to conduct such inspections should be used. Each inspection must be documented in the parcel file. Rodent control measures should be coordinated with interested agencies such as State and local health agencies. Often, to be effective, treatment must go beyond the right of way limits. This requires working with adjacent property owners and the local jurisdiction to effectively control the rodents. Using contracts for rodent control is an appropriate property management expense.

7.2.4 – Safety

The Department is responsible for reasonable safety measures when it has acquired ownership or possession of improvements. These measures may include changing the locks on each property as it is acquired, boarding up of windows and/or doors, posting of “No Trespassing” signs, fencing the property, hiring security personnel for on-site security or periodic inspections of the property, or requesting additional drive-bys by the local police.

7.2.5 – Hazardous Waste and Storage Tanks

Any property suspected of having leaking storage tanks, or hazardous materials, must be cleared by the Region environmental section before it can be sold. An Initial Site Assessment (ISA) or Modified Environmental Site Assessment (MESA) shall be conducted during the preliminary design and environmental phase of all new projects to address liability and environmental issues related to property acquisition and subsurface intrusion. If Region review of older parcels reveals that an ISA or MESA was not conducted previously, the Region must ensure that an ISA or MESA be conducted before any lease, trade, or disposal can be completed. If the ISA/MESA indicates potential for encountering contamination, then the Region should follow up with a Site Investigation (SI) to determine the nature and extent of the contamination, if any. In addition to evaluating CDOT owned and controlled property, the Hazardous Materials Unit evaluates spills or “midnight-dumping” found on maintenance facilities, highway right of way, or vacant excess or remainder property, etc.

Any cleanup issues/costs related to the acquisition of project property should follow the guidelines outlined in Chapter 4 of the Right of Way Manual for Acquisition.

7.2.6 – Hazardous Materials

An asbestos inspection shall be conducted on all buildings and the inspector shall advise the Department through a written report of what materials are asbestos containing materials (ACM) that need to be abated prior to sale or demolition of the building. The asbestos inspector must take samples, send them to an approved laboratory and obtain the results prior to completing the report. The inspection report shall state what asbestos was found and the requirements for abatement. If abatement is required, an abatement contractor will be hired to accomplish the abatement and, following a post-abatement inspection by the asbestos inspector, the inspector will issue a Demolition Notification and certification that the materials which must be abated prior to demolition have been properly abated. The Colorado

Department of Public Health and Environment (CDPHE) requires that a Demolition Notification be submitted to the CDPHE at least 10 business days prior to demolition of ANY building, load-bearing wall within a building, and for interior demolition for renovation projects (in commercial buildings or public buildings/facilities) where 260 linear feet of material on pipes and/or 160 square feet of ACM materials on other surfaces will be disturbed during renovation in public or commercial facilities/buildings. In those cases where the building is being sold to a third party, a copy of the asbestos inspection report will be provided to the Region and the Project Manager responsible for the sale, as a matter of disclosure only. All contracts for the sale of any building must contain disclaimer language concerning asbestos reports provided by the Department as disclosure and concerning ACM materials that will be moved with the building, as discussed in this manual. Only the asbestos that could reasonably be expected to be disturbed (i.e. Ceiling texture on ceilings in buildings moved in more than one piece, tile or linoleum on a staircases or platforms leading to a basement, ALL ACM materials in the basement, the lower two to three feet of transite panels around the exterior of the building if they are within close proximity of the foundation, and tile or linoleum on a concrete slab that may be disturbed) will be abated by the Department, based on the report recommendations. Third parties that purchase a building from the Department and move it to another location will not receive ANY form of certification that the required asbestos has been abated. Third parties moving buildings that were purchased from CDOT are responsible for any asbestos remaining in the building, and CDOT will only abate those materials that could reasonably be expected to be disturbed during the move, or those materials that may result in a future liability to the Department.

NOTE: Some counties may require removal of ALL exterior ACM when the house is being moved, however, the Department can occasionally negotiate a waiver of this requirement by sufficiently proving to the regulatory official in that county that "removal of ALL exterior transite siding is not necessary."

1. Asbestos Inspections

- a. Asbestos inspections must be conducted on all buildings scheduled for renovation (if the renovation may involve removal or damage to suspect asbestos containing materials on 260 linear feet of pipe or more and/or 160 square feet of suspect materials on any other surface), sale by auction, or for demolition, whether owned by the Department as general ledger property, or purchased as right of way for highway construction. Asbestos inspections conducted prior to renovation of any buildings that are general ledger properties of the Department are not only for purposes of abatement recommendations, but also for OSHA recommendations in those instances where the buildings are occupied by state employees, or will be re-occupied following renovation.
- b. A non-project specific contract is currently in place with the CDOT's Contracts & Agreements office for asbestos inspections and reports and may be used by either the Region or the Central Office. If a Region elects to use the current contract, it is their responsibility to contact the Central Office to request a Task Order Number and current contract amount prior to execution of the Task Order.
- c. To request an inspection, the Region completes a Disposal Request Form is completed with the appropriate project coding information, and sent to the Central Office, Hazardous Materials Unit. A task order will be set up for the inspection and report, based on information provided by the requestor.
- d. Asbestos inspections conducted prior to renovation of any building that is a fixed asset of the Department are for the purpose of abatement recommendations when the building is occupied by state employees, or will be re-occupied by state employees following renovation. OSHA compliance is also required in those instances where the building renovation will involve removal of asbestos containing flooring by CDOT employees. Asbestos abatements are always based on the recommendations contained in the asbestos inspection report, which is completed by an outside contractor.

- e. It takes up to two weeks to receive the inspection report following the initial inspection. In an emergency the Central Office Hazardous Materials Contract Manager can request 24-hour turn around on the analysis of samples, which can speed up the process by about one week, unless the materials are known to contain asbestos, or are assumed to contain asbestos (this can only be determined by a licensed asbestos inspector, unless the materials are part of a homogeneous area previously determined to contain asbestos by a licensed asbestos inspector). There is a licensed inspector in the Hazardous Materials Unit available to answer questions and help you with this.
- f. Abatement recommendations contained in the inspection report apply only to those materials that must be abated prior to demolition or moving a building. Reports **DO NOT** contain abatement recommendations for burning the building and/or any other training/practice activities by local fire and police personnel. ACM materials that **CAN** be demolished and disposed of as demolition debris **CAN NOT** be burned and must be abated prior to burning, if the Region decides to allow the local fire/police personnel to use a CDOT building for training or practice. The request for an asbestos inspection on a building that may be used for these purposes must note the Region's intent, so an appropriate inspection can be done. A second inspection and report will be required if the Region does not specifically request this type of asbestos inspection, or later decides to allow the building to be used for these purposes. Asbestos inspections on renovation projects (if required) are based strictly on information provided by the Region, their consultants, and contractors, such as architectural drawings/construction plans and a walk-through by the inspector with the architect, the project manager in charge of renovation, and/or facilities manager familiar with the renovation project. Any variance from the areas actually inspected will not be covered in the inspection report and recommendations for abatement. If access is restricted during any asbestos inspection (i.e. excessive storage in one or more areas of the building, tenants/owners in the building during the inspection placing restrictions on the inspector, or locked rooms within a building the Department does not yet have legal access to), a second inspection will be required in order to cover the restricted areas.

2. Asbestos Abatements

- a. When the inspection report is delivered to the Contract Manager in the Hazardous Materials Unit of the Central Office, the report is reviewed for accuracy and economic practicality. There is also a non-project specific contract in place for asbestos abatements that may be used by either the Region or the Central Office. If a Region elects to use the current contract, it is their responsibility to contact the Central Office to get issued a Task Order Number and current contract amount prior to execution of the Task Order.
- b. After review, an abatement task order is set up for the asbestos abatement based on the same coding used to set up the task order for the asbestos inspection, unless otherwise instructed.
- c. Abatement permits must be ordered from the Colorado Department of Public Health and Environment on most abatement jobs and take 10 business days or two weeks to obtain, except in the event of an emergency. Emergencies are only those instances where the public's health, safety, or welfare is in jeopardy. If demolition work is involved there is an additional 10-day wait on the Demolition Notification.
- d. Demolition Notifications must be submitted to the Colorado Department of Public Health and Environment prior to demolition, whether the building is demolished by the Hazardous Materials Unit or by the construction contractor. If the Hazardous Materials Unit also handles the site clearances/demolition, the Demolition Notification will be submitted to the CDPHE as part of the project. If the construction contractor is responsible for demolition, the Hazardous Materials Unit will submit Demolition Notifications to the Region for further handling by the construction contractor.

- e. The Hazardous Materials Unit of the Property Management Section can make a written request to the CDPHE that the additional 10-day wait required prior to proceeding with demolition run concurrent with the 10-day wait on the abatement permit. The Region must request this **PRIOR** to the abatement permit being ordered by the contractor.
- f. Asbestos containing flooring materials that must be removed prior to renovation do not have to be abated by a licensed abatement contractor, **ONLY IF** the flooring can be removed without tearing or breaking and is removed by CDOT personnel that have completed and passed the final examination for the 8-hour employee OSHA training course and are supervised by a competent asbestos professional (i.e. licensed asbestos inspector or a supervisor that has not only completed and passed a final examination for the 8-hour employee OSHA training course, but one additional training course on the removal of asbestos containing flooring materials.) The additional course required for anyone supervising the removal of asbestos containing flooring materials must be a 4-hour minimum training course, and information concerning the available courses can be obtained from the Hazardous Materials Unit.
- g. Effective December 15, 2000, the Toxic Substances Control Act amends the Federal Register to extend the Asbestos Worker Protection Rule to state and local government employees who are performing construction work and custodial work.

3. Asbestos Disclaimer

This disclaimer below should be included in any sales contact, or Memorandum of Agreement, and made a part of the contract rather than just attached to the asbestos inspection report provided to the purchaser when sold at auction or retained by the original owner as salvage.

“The Colorado Department of Transportation (CDOT) has provided the Purchaser with all available reports and records pertaining to asbestos containing materials. The Purchaser acknowledges and understands that the asbestos inspection report provided is for disclosure purposes only. The asbestos inspection was conducted by a qualified, licensed, independent, Asbestos Building Inspector, and the report was provided to the CDOT by an independent environmental consulting firm. CDOT makes no guaranties, warranties, or certifications of any kind as to the accuracy of the written report or recommendations contained in the report. The buyer acknowledges receipt of the asbestos inspection report, has read and understands the report, and agrees that the abatement performed by CDOT, which includes removal of the _____, is sufficient for purposes of moving the building to another location. The Buyer also agrees that any asbestos remaining in the building is sufficiently contained at this time, and accepts responsibility for any further abatement that may be required by the Colorado Department of Public Health and Environment, including any asbestos containing materials that are abated after the building is relocated, or that may be left at the site by the Buyer. The CDOT accepts no responsibility for further sampling, analysis, or abatement of additional asbestos containing materials. The Buyer holds harmless and indemnifies the Department for any liability resulting from the failure to comply with applicable laws and regulations relating to the inspection for and abatement of asbestos containing materials prior to this sale or in the future.”

4. Lead Based Paint

Existing regulations do not require a lead based paint (LBP) inspection prior to demolition of a building, however, there are regulations that do require a waste determination to establish whether lead bearing waste may be managed as a solid waste (requires a simple dust control plan by the demolition contractor and may be disposed of with demolition debris), or managed as a hazardous waste (requires specialized handling and disposal by a qualified environmental

professional). Since demolition debris consists of integral building materials that are not all contaminated with LBP, the materials more often than not qualify as solid waste that can be disposed of as demolition debris. There are conflicting regulations being reviewed by the EPA, which involve the leachability of LBP and the practicality of disposing of materials coated with LBP as toxic waste (where the materials could potentially leach and mix with other toxic materials), rather than disposal as solid waste at a municipal landfill. Demolition requests sent to the Hazardous Materials Unit will be handled on a case-by-case basis, and LBP inspections will be conducted at the discretion of the Project Manager, only in those instances where there is legitimate concern that the toxicity of the general waste stream may exceed regulatory levels.

Although LBP inspections/abatement are not required prior to the sale or rental of real property, disclosure documents must be signed on any transaction involving the sale or rental of pre-1978 property owned by the Department, except short-term leases of 100 days or less, renewal of leases where the information was previously disclosed, and leases on housing that has been inspected and found to be free of lead based paint by a certified inspector. These forms can be obtained from Property Management or the Hazardous Materials Unit.

The Pre-Renovation Lead Information Rule of the Toxic Substances Control Act requires that anyone performing renovation for compensation distribute a lead hazard information pamphlet prior to commencing the renovation that will involve disturbing 2 sq. ft. or more of paint on surfaces constructed prior to 1978. "Compensation" extends beyond money. The rule also applies to the renovation of buildings using maintenance staff. The EPA pamphlet "Protect Your Family from Lead in Your Home" has been made available to the general public and the regulated community, and is generally sufficient for these purposes as well. These booklets can also be obtained from Property Management or the Hazardous Materials Unit.

NOTE: The primary source of lead poisoning is the ingestion of paint on surfaces in older, deteriorating housing. This is more of a concern for the safety of young children in target housing. However, all project managers should consider specific construction activities to determine whether lead based paint may result in non-compliance with OSHA regulations. Buildings cannot be burned unless they are first tested for lead based paint and any lead based paint present in the building has been abated.

- a. Currently, lead based paint inspections are not required prior to demolition, however, the regulations concerning lead based paint inspections are being revised for consistency. Presently, lead based covered materials can be disposed of as demolition/construction debris. Lead abatements are rarely ever required prior to disposing of demolition debris. Lead based paint inspections can be requested by the Region through the Hazardous Materials Unit in the Property Management Section.
- b. The Hazardous Materials Unit will determine the most practical and cost effective inspection/report that will serve the requestor's purpose. A task order will be set up for the inspection and report, based on information provided by the requestor.
- c. Specific types of lead analysis may be required, depending on the purpose. Lab results for lead based paint take at least two weeks in most cases.
- d. There is a non-project specific contract in place through CDOT's Contracts & Agreements office for lead based paint sampling and reporting.
- e. When a house or other building is being auctioned, sold or rented by the Department, there currently are no regulations requiring an inspection, however, there are disclosure forms available in either the Property Management Section or the Hazardous Materials Unit that must be signed by the purchasers of all buildings and for any rental buildings. Once these forms are completed and signed they are to be filed appropriately.

7.2.7 – Inventories for Acquisition Purposes

An inventory of the property acquired for the project is required by Federal regulations. Also, the inventory must be kept up-to-date with copies in the parcel file.

1. Completion of CDOT Form 433 (Certified Inventory of Real Property)

The appraisal will contain a specific list (certified inventory) of owner, tenant or lessee-owned real property improvements. It is **mandatory** the inventory of real property be completed when the taking involves real property with businesses. An inventory of personal property will be conducted by the Region at a later date. The appraisal contract administrator will identify owner and tenant-owned real property on the Certified Inventory of Real Property, CDOT Form #433. The appraisal contract administrator will prepare the inventory, secure appropriate signatures, and provide the original to the Central Office Acquisition Relocation Unit with copies to the appraiser, property owner, Property Management Section, the Region, and the project file.

The appraisal contract administrator will handle any question of ownership of real property during the initial inventory. If there is any question whether an item is real or personal property, a legal opinion should be obtained. The appraiser will include the inventory in the appraisal report and indicate on the Certified Inventory of Real Property form the items of real property included in the valuation.

Refer to Chapter 3 of the Right of Way Manual on Appraisal/Appraisal Review for more specific guidance.

2. Completion of CDOT Form 1016 (Property Inventory)

During negotiations, the Region will specifically indicate what items are included in the final settlement figure. The Memorandum of Agreement will list either by attachment or key reference, those specific items included as part of the monetary consideration. The Region will complete the "Property Inventory", (CDOT Form 1016), sign, and submit it to the Property Management Section. This inventory should document the difference between the CDOT Form 433 and CDOT Form 1016 inventories.

The Region will determine if a tenant has a damage deposit with the owner. If so, it must be turned over to the Department, or withheld from the owner's settlement, as the Department must return the damage deposit to the tenant upon vacation of the premises. If the property is to be demolished or re-leased by Central Office staff, the Region will send a cover letter with all keys and the inventory to the Property Management Section. The Central Office Property Management staff will review and take any required security provisions necessary to protect the property.

Refer to Chapter 4 of the Right of Way Manual on Acquisition for more specific guidance.

7.2.8 – Improvement Security and Maintenance

1. Security

Vandalism and dumping on the right of way are almost impossible to stop. However, acquiring agencies must make an effort to prevent these activities. Some of these attempts can amount to a fairly large expense, so an analysis of the problems anticipated and options available prior to the first acquisition on the project will prepare you to proceed with security without undue delay. There are many ways to effectively reduce or eliminate these issues including the following:

- Fence the right of way.
- Sell the improvements immediately.
- Hire security personnel.
- Coordinate with the local law enforcement agency.
- Get the community involved in a neighborhood watch type program.

2. Maintenance of Properties

Acquired right of way must be maintained in such a manner as to prevent, minimize, or correct problems such as illegal dumping or disposal of rubble, debris, etc. on cleared right of way until needed for construction. Where the acquired right of way includes areas for future construction, the acquiring agency should consider leasing the use of such area until it is needed for highway purposes. The scope of maintenance to be performed spans the entire spectrum of levels of maintenance. To a large extent, the level of maintenance will be based on the following primary considerations:

- **The type of structure** - All types of structures are acquired for highway projects but some are more conducive to being rented than others.
- **The age of the structure to be maintained and its condition** - Generally the older the structure, the more maintenance will be required. As such, costs associated with maintaining each structure or property, as applicable, should be kept on file. Assuming a structure is in fair or better condition and marketable as a rental property, the cost of expected maintenance required should be measured against the amount of rent expected to be collected. A negative or marginal cash flow should eliminate a property from consideration as one to be rented.
- **The term of the lease** - The length of time the property is expected to be rentable is another factor in the decision to rent a property. The longer the time between its acquisition and its need for the project, the more feasible the leasing of a property becomes. If a property is likely to be rented for several years, and its type and condition make it conducive to rent, then the decision to be made concerns the maintenance issue. The longer the term of the lease, the more desirable it will be to have the property professionally maintained, even if on a periodic basis.
- **The ability of the tenant to provide maintenance** - Depending on the type of structure, some tenants are more capable of providing maintenance than others, thereby reducing maintenance costs and improving profitability. On the other hand, it may be more desirable to charge a higher rent, which would include maintenance considerations.

Based on these factors, there are several choices available for the maintenance of these properties:

- **State Forces** - Utilization of State forces to maintain property is usually a cost effective method if the manpower is available. A basic level of "heavy" maintenance can be provided while keeping the rent competitive. This is usually a good method to use in combination with tenant maintenance. The use of maintenance forces can only be used for limited, immediately needed work on land and improvements such as weed control, trash pickup, boarding of windows and doors, etc. To be eligible as a force account item, the following procedure must be followed:

- There must exist an unsafe situation, a need for a quick response, or a notice was received from a local public agency to rectify a problem with the property.
- A detailed explanation for using State forces rather than a contractor should be prepared by the Region.
- An estimate of the cost and extent of the services must be provided including the Cost Centers of the proposed State maintenance forces to be used.
- The cost estimate must be approved as reasonable by the Property Management Section. If the request is by the Property Management Section staff, the Property Management Program Manager must approve the request. Requests shall be approved/disapproved immediately upon receipt of request.
- If approved, an e-mail will be sent to the requestor authorizing the services with copies to Accounting (Federal Aid), the Region, and the Maintenance Superintendent.
- **Tenant Maintenance** - Allowing the tenant to maintain the premises is the most cost effective way of maintaining a property. However, there are risks associated with this method. The primary risk is the delaying of required or necessary maintenance. The next risk is the quality of maintenance conducted. If a tenant was allowed a reduced rent in exchange for maintenance of the premises, and the agreed upon level of maintenance was not conducted, the Department may be left with a structure that may be unrentable thereby denying CDOT of potential rental income. Leases can be structured to account for these risks and others.
- **Commercial Contractor/Vendor** - Maintenance of land and/or improvements may be completed by commercial contractors or vendors who can provide the complete scope of property maintenance services.
- **Combination Method** - Utilization of a combination of the above-listed methods can be another cost effective way of dealing with required maintenance. There are many options available, which would generate positive cash flow while adequately maintaining the acquired property. The specific combination of methods and the degree to which they are employed will determine the feasibility of renting a property.

7.2.9 – Short Term Leases or Understanding of Rent

The rental process during the acquisition phase of a project is similar to renting highway airspace with the exception of the term of the lease and rental income. Leases during the acquisition phase of a project are generally dictated by the anticipated advertising date for the project. Also, relocation benefits may have an impact on whether to lease a property.

The Department will waive the first 30 days rental fee to relocatees (from time of closing), after which a lease agreement or Understanding of Rent is needed if the Owner/Tenant stays in/on the property for more than the time allowed for the purpose of vacating the premises (see Chapter 4 of the Right of Way Manual for further direction). If the Region determines an additional waiver of rental fees is necessary after reviewing the circumstances presented by the relocatee, the Region Right of Way Manager must prepare a justification letter and forward it to the Property Management Section for placement in the rental/lease file and a copy to the project parcel file.

- A standard lease or an Understanding of Rent document will be prepared by the Region indicating the amount of rent, security deposit, date of first payment, and potential late charges.

- After the lease or Understanding of Rent is signed by the tenant, the document, with the first month's rent, will be submitted to the Property Management Section so it can be executed, assigned a "P" number, and added to the inventory.
- The Region will collect all rents and has full responsibility for project rental properties involving relocatees.
- If the property is rented to the original owner/tenant until relocation is completed, the Region will retain responsibility and complete a final inspection of the property, inventoried previously, until such time as the tenant moves. If the rent is not paid, the Region will be responsible for informing them that their relocation benefits may be diminished to make rental payments.
- The Region Right of Way Manager will determine what can be deducted from the relocation payments.
- Once the original owner/tenant has moved out and the property inventory has been done, as well as relocation benefits checked, the Region will furnish the Property Management Section verification of when the owner/tenant vacated so the lease inventory can be updated.

When possible, the property should not be leased back to the previous owner after relocation because of problems with inventory control and obtaining possession when needed. Any project property the Region wants to lease with non-relocatees will be sent to the Property Management Section with a completed Standard Lease or Lease Request Form, so Central Office staff can draft a Standard Lease at the Fair Market Rental Rate. The rental rate can either be set by the Region, with concurrence by the Property Management Section, or staff in the Property Management Section will set the rental rate with concurrence by the Property Management Program Manager.

7.2.10 – Disposal of Real Property and Improvements

1. Procedures for Identification of "R" Parcels:

- Identification of Obvious "R" Parcels

Region Right of Way will identify obvious "R" parcels on the plans during initial plan preparation. The "R" designation indicates that the residue parcel after take may need to be purchased by CDOT if the parcel has no economic value to the owner after the take. The final determination if the residue after take is an uneconomic remnant is the decision of the review appraiser. Following are examples of obvious "R" parcels:

- Landlocked tracts.
- Small, triangulated or irregularly shaped tracts with limited utility in the "after" condition.

- Identification of "R" Parcels During Review Process

During the review process, consideration will be given to the addition or deletion of "R" parcels. The review appraiser will recommend the addition or deletion of "R" parcels to the Region Right of Way Manager. When it is determined that a change should be made, the review appraiser will notify, by written memorandum, the Region Right of Way Manager, who will notify, by copy, the appropriate squad leader in the Region Right of Way/Design unit. The Right of Way Program in the Central Office will be provided with revised plan sheets showing the "R" parcel changes and then they will distribute the revised plans. In all instances the appraiser is to appraise the "R" parcel as a residue after take and the damage thereto. If the residue is determined to be an uneconomic remnant, the reviewer will note this information on the FMV and list the additional amount which must be offered to the property owner to purchase the entire severed portion.

2. Excess Land

- Parcels which are acquired for highway purposes, which may or may not be constructed upon, that lie inside the ROW lines of the original project.

- Procedure for Identification of "X" Parcels

Parcels of land which were acquired for roadway purposes may be recommended as excess by the Regional Transportation Director. If Federal funds were involved in the acquisition, Federal Highway Administration approval of the land disposal is required. The Right of Way Program in the Central Office prepares an Excess Land Finding and a Resolution for Approval by the Transportation Commission.

The number of the excess parcel shall be the same as the number of the parcel originally purchased followed by the letter "X". In the event the parcels are made excess by a new project, the parcels will be numbered in accordance with the new project followed by the letter "X". All excess parcels shall be shown on the plan sheet and tabulation of properties sheet and labeled "to be conveyed, subject to Transportation Commission approval". Access rights and easements should also be considered when excess land is sold. As with "R" parcels, these parcels shall also be described separately.

3. Owner Retention

One of the easiest methods of disposing of improvements located on lands necessary for highway purposes is through owner retention. The owner of the improvements should be made aware of the option for retaining improvements. **Third party sales are discouraged. Department personnel should not participate or assist in these transactions as any assistance may be viewed as a brokerage transaction and potentially is regulated by the Colorado Real Estate Commission.**

Owner retention may be for all the improvements on a parcel, or it may be for only some of the improvements. In any case, all items are expected to be turned over in as good condition as when the offer was made, less normal wear and tear.

The Department may retain any improvement for its own use. When project property is retained by the Region for maintenance or Department use, the salvage value must be credited to the federal aid project and the disposition documented in the parcel file. The Region should inform the Property Management Section of its intention to retain the improvements and indicate what use will be made of them.

If the improvements located within the right of way are not to be used by the Department, the Region shall inform the owner of their option to buy back the improvements at salvage value. Salvage value will be set by the review appraiser who prepared the original FMV. However, improvements within a remainder owned by the Department shall not be offered to the owner unless the improvements are to be removed from the remainder property (See Chapter 4 of the Right of Way Manual for further direction/clarification).

If the owner chooses not to buy the improvements, the Region, after conferring with the Property Management Section, will determine the method of disposal (such as auction, demolition, removal by highway contractor, or other method). If there is salvage value for any improvement, and the owner does not wish to retain the improvement at the established salvage value, and the Department does not take possession of the improvement upon closing, then the Region should withhold payment for the improvement until such time as the Department gets possession and determines the improvement is in acceptable condition. Should the improvement not be in acceptable condition, the Department may elect to either retain the amount held back with an explanation to the owner, or the Region may elect to document the file with the appropriate justification for accepting the improvement in its present condition. In the event the improvement is involved in a condemnation case and possession is not granted to the Department at the time

the Department takes possession of the land, then provisions and/or revisions in the petition for condemnation and the stipulation for possession may be necessary to insure the improvement will be in acceptable condition at the time the Department takes possession.

4. Auction

The Purchasing Department in the Central Office selects an auctioneer each year by contract to be used for Department auctions. The Property Management Section in the Central Office is delegated authority for the disposal of real and personal property associated with the Right of Way and Property Management Programs and will use the Department contract auctioneer if available. The Property Management Section will also obtain all necessary approvals before the auction is held.

In the notice advertising the auction, the Department must indicate they have the right to reject any or all bids. This should also be announced at the auction. The Region shall have a representative at the auction unless prior arrangements are made with the Property Management Section for other representation. The results of the auction will be reported to the appropriate Region personnel as soon as possible. All proceeds will be forwarded to the Accounting Branch, care of Receipts and Deposits the same day as the auction is held. The Property Management Section will provide the proper coding of the proceeds.

5. Exchange on Active Projects

Routine exchanges which involve active right of way projects, for example, where excess right of way is exchanged for other lands required as needed right of way on the project are allowed under §43-1-210(1), C.R.S. This applies to those parcels, which were subject to eminent domain actions when they were first acquired. Remainder parcels are a good example of this and their approval to exchange them for other needed right of way was previously delegated to the Region Right of Way Section. Following is the procedure for exchanges where excess property has been identified within the project limits and the Region wishes to exchange the excess property for property on which to construct the project:

a. Remainder (R) Parcels

- (1) The Property Management or Right of Way Services Section in the Central Office will secure the approval to exchange the property from the Chief Engineer, which was previously delegated by the Commission through Resolution TC-271. Such routine exchanges will generally involve the disposal of property acquired by the Department pursuant to §43-1-210(1), C.R.S. or property which is of use only to one abutting owner
- (2) The remainder parcel to be exchanged must be indicated on the authorized project right of way plans or, shown as a project plan revision and approved by the appropriate agency.
- (3) The disposal of remainder property via a routine exchange must still be approved by the Federal Highway Administration, if on the interstate system, or by the Property Management Program Manager in the Central Office, as the Federal Highway Administration's delegee on all other state highways.
- (4) Previously acquired remainder properties may be exchanged without Transportation Commission approval for other property needed for state highway purposes.
- (5) All routine property exchanges shall be traded on a dollar for dollar basis, based upon the before value as set by the Department's appraisal.

b. Excess (X) Parcels

- (1) The Property Management or Right of Way Services Section in the Central Office shall secure the approval to exchange the property from the Chief Engineer, which was previously delegated by the Commission through Resolution TC-271. Such routine exchanges will generally involve the disposal of property acquired by the Department pursuant to §43-1-210(1), C.R.S. or property which is of use only to one abutting owner.
- (2) The excess parcel to be exchanged must be indicated on the authorized project right of way plans or, if a new excess parcel is to be carved out of the existing right of way, the excess parcel must be shown as a project plan revision and approved by the appropriate agency.
- (3) If the excess property is not within the active project limits, the proposed exchange must be approved by the Transportation Commission.
- (4) The disposal of excess property via a routine exchange must still be approved by the Federal Highway Administration, if on the interstate system, or by the Property Management Program Manager, as the Federal Highway Administration's delegee on all other state highways.
- (5) All routine property exchanges shall be traded on a dollar for dollar basis, based upon the before value as set by the Department's appraisal.

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Section 3 – CLOSED PROJECT PROPERTY MANAGEMENT

Once the project is complete, there are many locations where the owning agency has land or airspace that is not needed for the existing highway facility. The determination of excess property or that right of way that will not be needed until sometime in the future is usually made by a combination of the various disciplines located within the Region. It is typically a function of the Property Management Section to market highway airspace or excess property for utilization by the private sector in conjunction with Region personnel.

7.3.1 – Property Rental and Leases

It is the policy of the Department of Transportation that all property not needed for highway purposes will be disposed of, except those designated as wetlands, green-belts, wildlife habitats, or scenic vistas on the Excess Property Inventory. There are circumstances, however, when Department property should be leased. Generally this occurs with right of way and excess/remainder parcels acquired for future use, right of way used for highway purposes, which can be leased for another joint use, and property used for employee housing.

Typically, the Region will request that the Property Management Section in the Central Office prepare a lease for a specific piece of property. In addition, the property inventory will be incorporated in the lease where applicable. The request will be in the form of a Lease Request Form and will include any specific language the Region would like added to the standard lease form and the legal description.

After the Property Management Section receives the completed Lease Request Form from the Region, a rental analysis will be conducted to establish fair market value. The market analysis will take into consideration the short-term nature of the lease, who handles maintenance, and who pays utilities. The tenant will not be given credit in the lease rate for payment of taxes, but will be given credit toward the lease fee upon proof of payment of taxes through a tax receipt. A lease will be drafted and 3 copies mailed to the tenant for signature. Once the leases, together with the first month's rental payment and proof of insurance, naming the State as additional insured, are returned to the Property Management Section and reviewed, they will be forwarded to the Chief Engineer or his delegee for signature. The lease will not be valid until signed by the Chief Engineer on behalf of the Department. All lease rental payments, after the original payment, will be sent directly to Receipts and Deposits in the Accounting Branch. The Property Management Section's involvement with the tenant occupied property includes:

1. Collecting short-term rent for rentals less than 90 days.
2. Contacting tenants regarding past due rent.
3. Handling repairs a landlord would typically make under the lease agreement when it is desirable to continue renting the property.
4. Working with the Attorney General's Office when it becomes necessary to evict a tenant.
5. Responsible for advertising and showing property to prospective tenants when re-leasing the property, or coordinating with the Region if it is geographically closer.
6. Executing new leases when the existing one expires, with the Region's concurrence.
7. Conducting a study to determine the fair market rental rates for leases.

When a lease is canceled and the occupant vacates, the Property Management Section staff will make a physical inspection of the property (or coordinating with the Region if it is geographically closer) to determine if the property is in satisfactory condition. Central Office staff, after consultation with the

Property Management Program Manager, may authorize the return of any security deposit to the tenant. If the property is not in an acceptable condition, the Department will withhold from the security deposit that amount necessary to fix/replace the damage and provide a detailed accounting of the amount withheld from the security deposit to the tenant. If delinquent, appropriate amounts of the money will be withheld from any security deposit or possible relocation benefits. If the property is not to be re-rented, the Property Management Section will turn the property over to the Hazardous Materials Unit for disposition after final inspection.

1. Future Right of Way Property

Right of way purchased for future use can be leased until it is needed for highway construction. This may include areas, which are in addition to those required for immediate construction or property acquired in advance with no construction taking place at the time. If CDOT has acquired sufficient legal right, title, and interest in the right of way of a federally assisted highway, it may grant temporary or permanent occupancy of the right of way for non-highway purposes. The following conditions must be met for compliance with 23 CFR 710:

- Federal Highway Administration (FHWA) has approved temporary right of way limits within the overall right of way;
- A written request, in the form of a cover memo, from the Region requesting that the parcel in question be declared future right of way should be sent to the Property Management Section, along with all supporting documentation including a survey and/or legal description, the appropriate right of way plan sheet with the proposed parcel transposed onto the plan sheet, a detailed explanation of the intended usage, and a completed lease request form.
- Upon review of the package, the request and the Property Management Section's recommendation, along with all supplemental information, including the proposed lease, will be forwarded to FHWA for its consideration and approval if the proposed lease is located on the Interstate System. If the request is located on any other National Highway System or State Highway System facility, the package will be reviewed by the Property Management Program Manager in the Central Office for approval as FHWA's delegee. FHWA will be consulted as an interested party during the approval process.
- The right of way is not needed presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility;
- The integrity and safety of the highway facility constructed elsewhere on the right of way is insured;
- There is no decrease in the access control to the highway facility constructed elsewhere on the right of way;
- Where a proposed use requires changes to the existing facility, such changes shall be provided without cost to FHWA;
- The proposed use must conform to the current FHWA design standards and safety criteria for the functional classification of the facility upon which the usage occurs.

In any case, the Region, after conferring with staff from the Property Management Section on the desirability of renting and the amount of rent to be charged, shall assist Central Office staff in an attempt to find a renter for the property. The Property Management Section will set the fair market rental rate based on the standardized lease schedule adopted by the Department.

- The Region shall provide the Property Management Section with a lease request form stating the name, address, and phone number of any proposed tenants and any recommended terms or conditions of the lease. Also, the Region shall include on this form the project, subaccount, and parcel number, together with an attachment of the legal description, map, and the Categorical Exclusion (CDOT Form 128). Some methods to be used in finding renters are advertising in newspapers, posting a sign on the property, etc. The Region is perhaps the best source of information for possible renters because of their location and contacts within the community. The amount of rent to be charged is the fair market rental value. However, it should be kept in mind that if the property is to be rented for a short term or for a period subject to termination by the Department on short notice, the amount of rent charged shall not exceed the fair rental value of the property to a short term occupant. The annual rent would normally be between 6% and 15% of the market value. The Property Management Section is responsible for setting the amount of rent to be charged after consulting with the Region. At the end of the term of each lease, Central Office staff will consult with the Region regarding the renewal of the lease, any changes in the terms and conditions of the lease, and review the rental amount to determine if a rent change is needed. Property leased for a very short time (less than four months) is considered a month-to-month tenancy.
- The Property Management Section, or the Region if they desire, will prepare the lease or rental agreement. This lease or agreement provides for the first month's rent together with a security deposit when appropriate. The unearned portion of any prepaid rent shall be refunded upon cancellation of the rental agreement, provided all charges are paid as required in the lease agreement.

The lease shall normally have a 30-day cancellation clause; however, in cases where it is obvious the Department will not need the right of way for some time, a longer period, not to exceed 90 days, may be guaranteed before the cancellation clause would take effect. Clauses requiring the removal of any and all improvements at no cost to the FHWA or the Department, adequate insurance to protect and hold the State and FHWA harmless, nondiscrimination, access by both Agencies for inspection, maintenance, and reconstruction of the facility must also be contained in the lease. The agreement or lease shall direct the renter to send payments, after the first month's rent, directly to the Accounting Branch, c/o Receipts and Deposits, 4201 E. Arkansas Avenue, Room 212, Denver, Colorado 80222.

- For those leases being handled by the Region, the Region will use the appropriate, most current, standard lease drafted by the Property Management Section, which can be found on the Property Management website.
- The Region will request the lease and lease rate from the Property Management Section, if the Region elects not to do this function, and a "P" number will be assigned for lease and payment tracking purposes.
- Once three originals of the lease are signed by the tenant, the Region will send it to the Property Management Section with the first month's rent, and security deposit if required.
- The Property Management Section will have the lease executed, transmit the payment with necessary information pertaining to the lease to Accounting, Receipts and Deposits, and make necessary changes in the property inventory. Generally, all rent monies received for projects where the project is open will be credited to that project. On projects, which have previously been constructed, and a final voucher processed, all monies received shall be credited to Revenue Source 6400 21.
- After collection of the initial rent amount with the lease, all other rent will be sent directly to Receipts and Deposits, Accounting Branch in Denver.

- The Property Management Section shall be provided with a deposit receipt, including the date the payment was received in Accounting, indicating what rents have been paid and where credits have been given. Receipts and Deposits will forward the receipts, together with the envelope, to the Right of Way Program, Acquisition Relocation Unit, for entry into the current Real Estate Management System.
- The Property Management Section will handle all delinquent notices or any other action taken for collection of unpaid rents.
- Upon receipt of notice that an occupant is vacating a property, the Region will be contacted by the Property Management Section to determine whether or not the improvements should be demolished for construction, or in the case of a remainder property, if the property can be sold.

If not, the Property Management Section, with the help of the Region, will try to find a new tenant.

- When the Department requires the use of the property, The Property Management Section shall coordinate with either the Acquisition Relocation Unit, or the Region, the date of any notice terminating a lease or rental agreement so it does not conflict with any eligible relocatee's rights under the 90 day and/or 30 day notices provided by relocation regulations (see Chapter 4 of the Right of Way Manual for additional information). A copy of the termination letter will be sent to Right of Way Services, the Region, if initiated by the Property Management Section, and Accounting.
- The property will be inspected to determine the extent, if any, of damage and will notify Accounting of the amount of security deposit, if any, to be retained by the Department.
- A warrant for the remaining amount of the security deposit, payable to the tenant, will be ordered and sent it to the tenant with a letter listing the reasons any funds were withheld.
- An account of all property management expenses and the rental payments received on each leased parcel will be kept by the Property Management Section.

2. Leasing Property from Others for Department Purposes

It may be in the Department's best interest to lease property rather than buy it. When this is the case:

- The originating Region or Division must prepare the justification for the lease and a written request for approval by the Executive Director per Procedural Directive 1307.0.
- Upon approval of the request to lease property, the Property Management Section will determine if the Department is required to use the current state awarded contractor to pursue leasing the property. At this time, only the Denver metro area and the Colorado Springs area are required to use this state awarded vendor, but this may change from year to year.
- The Property Management Section will, upon request by the Region, assist in finding suitable property, negotiating the rental rate, terms and conditions, etc. for the lease.
- Once agreement has been reached between the Lessor and the Department, seven (7) original copies are prepared, along with any required exhibits, the Lessor is asked to sign each original lease, the leases are forwarded to the Property Management Section for routing to secure the remaining signatures.

- Typically, this requires an entry into the COFRS system and attachment of the subsequent CLIN Screen document to the lease package then obtaining the signature of the Chief Engineer, the Attorney General, State Personnel (via the State Buildings and Real Estate Division representative), and the Department's Controller.
- Upon execution, the funds are encumbered and the original copies are distributed to each appropriate party.

7.3.2 – Oil and Gas Leases

Oil and gas leases are handled as a function of the Property Management Section in the Central Office. When the Department acquires real property for highway purposes, the right to subsurface support of such real property is deemed to be acquired pursuant to §43-1-209, C.R.S., therefore no drilling or excavating that might endanger this subsurface support will be allowed. Requests to lease lands must be in writing and include a legal description or other appropriate method identifying the property to be leased. Reference to highway project and parcel number is preferred.

The Department will consider all lease requests, but the potential lease cannot interfere with the Department's use for road purposes or for reasons of safety, welfare, and convenience of the public. The lease term is customarily for five years and subject to any and all terms included in the standard oil/gas lease. With extenuating or unusual circumstances, a different lease may be considered with approval by the Attorney General's Office. Lease fees and procedures are explained to the prospective lessee upon inquiry. This is typically by letter or phone communication. Upon receipt of written requests to lease CDOT's oil/gas rights, the following action is taken:

- Legal Description is checked to determine if CDOT owns or is currently leasing the area.
- File is researched to determine:
 - That the Department appears to own the mineral rights for the proposed area. This search goes back to the deed received by the Department at acquisition. The Department does not warrant title. Lessee is cautioned to do their own search and be reasonably certain that the Department does indeed have the mineral rights.
 - That the Department has not already leased the mineral rights.
 - That granting of the lease does not interfere with the Department's use of the property, or the safety, welfare, and convenience of the public.
- The proposed lessee is notified if any problem is discovered during the initial action.
- When everything appears to be in order, Property Management assigns a "P" number . Three (3) originals of the lease are prepared and sent to the prospective lessee. The lessee, upon examination and approval, is asked to return all three signed originals of the lease, including a check for preparing the lease and the beginning lease fee. This amount is indicated in the lease and transmittal letter.
- When three signed originals are returned, they are forwarded to the Chief Engineer for approval and signature.
- When the lease is executed, a signed original is forwarded to the lessee, the second signed copy is goes into the lease "P" file, and the third signed copy is forwarded to the Region Right of Way Office. Payments are forwarded to Accounting, along with a data sheet, to establish the initial

record and tracking of future payments. All other actions pertaining to oil and gas leases, including oil and gas lease Division Orders, are processed through the Property Management Section.

1. Division Orders

An Oil or Gas Division Order is a division of interest among all the owners. The Lessee submits this Division Order to CDOT with a cover letter from the oil and gas company including associated instructions on executing the Division Order. These instructions are to be ignored. The Department uses a form letter drafted by the Attorney General's Office called the "Division Order Supplement." The Division Order is processed as follows:

- a. Identify the county the division order is referring to and the name of the well. This well name is to be added to the "Well Book" so all royalties received can be credited to the correct well.
- b. Review the Section, Township, and Range for the division order and determine which lease this division order references. If there is no lease that covers the area described by the Division Order, then the Company making the request must be contacted and a lease must be initiated or the Division Order returned.
- c. After locating the appropriate lease, then a Division Order Supplement Letter is drafted and sent to the Chief Engineer or delegee for signature.
- d. Upon execution, the Division Order Supplement Letter is attached to the Division Order and returned to the requesting Company, with a copy of both filed in the appropriate lease file.

7.3.3 - Telecommunications

Telecommunications contractors and/or providers have approached CDOT seeking permission for installation of fiber optics or wireless telecommunication towers/poles on CDOT right of ways or Department-owned buildings or land. There is a Public Private Initiative Program (Shared Resources Project) for certain CDOT right of ways. The following CDOT properties fall under the Shared Resources Project for the installation of fiber optics or wireless telecommunication infrastructure on CDOT ROW:

- Limited Access Freeways (e.g. Interstates, Hwy 36, 6th Ave. between Colfax and I-25).
- Remnant (remainder) Parcels;
- Maintenance Facilities;
- Residencies;
- Office buildings;

Other than the above, all remaining highways and properties fall under the normal utility permitting process for this specific purpose. Utility permits are issued according to the requirements and procedures as set forth in the State Highway Utility Accommodation Code, and the Public-private initiative agreement §43-1-1204, C.R.S.

1. Fiber-Optics within the Interstate and other Controlled Highways

Interested parties must respond to the Request for Proposal as the first step in gaining access to the right of way. To request a copy of this solicitation, please contact CDOT's Purchasing Department in Denver. The purpose of such solicitation is to select approved proposals.

Execution of a Master Contract is required along with additional specifics, which are outlined in the RFP and the Master Contract.

Any change in the usage of the right of way requires FHWA approval. This requirement is found within 23 U.S.C. 111 and specifically 23 C.F.R. 1.23, which requires all rights of way be devoted exclusively to public highway purposes except those approved by the Administrator. 23 C.F.R. 710.405(b) requires the STD obtain prior FHWA approval for permanent occupancy or use of Interstate system right of way.

All regeneration station sites must be approved by FHWA prior to their construction. The Utility Accommodation Plan does not include the above ground regeneration site installations. Additionally, FHWA has disallowed the use of interstate rest areas for the purpose of siting regeneration stations per 23 C.F.R 752.5.

There are visual aesthetics issues associated with the construction of regeneration stations also. Each site must have a landscape plan and should address the visual aesthetics issues in such a way as to blend the regeneration station into the surrounding landscape as much as possible.

If access to the regeneration site crosses the Access Control Line, additional requirements must be considered to protect the highway facility, including the usage of locked gates, prior to final approval by FHWA.

2. Wireless Facilities within the Interstate and other Controlled Access Highways

Prior to submitting a formal application for a Utility Permit, interested parties must respond to the Request for Proposal (RFP). To request a copy of this solicitation, please contact CDOT's Purchasing Department in Denver. The purpose of such solicitation is to select approved proposals. Requirements relating to the placement of cell towers are specified in the RFP and the resultant Master Agreement. A Master Agreement must be executed prior to proceeding. Please coordinate with the Intelligent Transportation Services Branch of CDOT. Once this agreement is signed then the requestor may proceed with the City/County permitting process and the execution of a Site Specific Agreement. Requirements are specified in the RFP and the Master Agreement detailing what is required. Each individual site requires the following:

- A Site Specific Agreement.
- FHWA approval.
- Appropriate environmental clearances.
- Region Utility Permit. Please coordinate with the Region Utility Engineer/Coordinator depending upon the location of the proposed site. The following items will be required:
 - A letter of request written on your company letterhead documenting that the first three items listed above items listed above have been complied with.
 - Two copies of the plan and profile showing vicinity map, site plan, design showing all geometric elements of the proposed facility and distances from edge of the driving lane, right of way line, or Access Control Line.
 - Each individual site requires a Site Specific Permit.
 - Comply with the State Highway Access Code in accordance with §43-2-147 CRS.

- Comply with CDOT's Standards, Specifications, Clearances from other Region Specialty Units, Region's terms and conditions, and FHWA approval.
- Two copies of the approved Traffic Control Plans that conforms to the Manual on Uniform Traffic Control Devices.
- A certificate of insurance in compliance with §24-10-114 CRS.

All other highways on the State System fall under the normal utility permitting process.

7.3.4 – Public Access Bike/Pedestrian Trails

The Department has a number of bike/pedestrian trails within its right of way on the State Highway System. An Intergovernmental Agreement (IGA) should be executed with the local jurisdiction proposing the new trail, as there are a great many issues that must be addressed including liability, maintenance, removal if the right of way is needed for construction purposes, etc. The following concerns must be addressed prior to allowing any new trails within the right of ways:

1. Environmental. The bike/pedestrian trail construction within the highway right of way must be cleared environmentally by the Region prior to requesting approval from the Federal Highway Administration or before the procurement of an IGA. Most of the time environmental clearance for a path or trail will not be very complex or time consuming. However, potential impacts to some resources, threatened or endangered species or wetlands, for example, could complicate the clearance and take a considerable amount of time to resolve. The plans submitted to CDOT for approval shall be precise enough for the Department to determine if there are wetland impacts, encroachment into streams, effects on threatened and endangered species, archaeological and paleontological sites, etc. The plans shall also be tied to state highway mileposts, show structure details including bridge substructure if applicable, minor drainage structures, extent of grading, impacts to vegetation including trees, potential erosion issues and control measures, conform to AASHTO design criteria for bikeway facilities, and be ADA compliant.
2. Right of Way. Approval from the Region Right of Way Section must be obtained prior to requesting approval from the Federal Highway Administration or before the procurement of an IGA. The information submitted to the Department for review for right of way issues shall include location maps, plan and profile sheets for the trail centerline location, typical sections including roadway, trail and right of way limits, cross sections at 50 foot intervals including roadway, trail and right of way limits to a point a minimum of 25 feet outside limits of grading, location of fences and barriers, and drainage structure details. Records will need to be searched to confirm the location and validity of utility easements and highway right of way along the highway corridor. The proposed trail must be overlaid onto the existing right of way plans prior to submission for FHWA approval.
3. Bridge. Approval of all new structures or modifications to any existing structures must be obtained prior to requesting approval from the Federal Highway Administration or before the procurement of an IGA. All modifications to any existing structures or new structures shall conform to the CDOT Staff Bridge Detailing Manual. This can be obtained by contacting the CDOT Bridge Section in Denver.
4. Traffic. The information submitted shall show all existing and proposed traffic control devices and the geometric design of the trail.
5. Design. Design plans will need to be developed and submitted for review by CDOT. These will need to be stamped and sealed by a Professional Engineer. The plans will need to adhere to

CDOT standards and those noted in the Federal Guidelines for Bicycle Facilities. Structures or low water crossings will need to be developed across major drainages.

6. Maintenance and drainage under the trail will be the responsibility of the requestor. The current drainage patterns shall not be altered and all pipes must be adequately sized to allow existing drainage within the right of way to flow freely under the trail. Repair of any trail damage will be the responsibility of the requestor also.
7. Liability insurance, naming CDOT as an additional insured, shall be provided by the requestor per existing statutory requirements to cover not only themselves, but the Department as well.
8. Should the highway be widened or modified in the future, the expense of relocating and reconstructing the trail would be the responsibility of the requestor.

Once CDOT has received the above information, it will be reviewed by the appropriate units within the Region and if acceptable, forwarded to the Property Management Section to obtain FHWA approval and begin the IGA process.

7.3.5 – Air Space Rental and Leases

Where the Department has acquired sufficient right, title, and interest in the right of way to permit the use of airspace for non-highway purposes, and where such air space is not required presently, or in the foreseeable future, for the safe and proper operation and maintenance of the highway facility, the right to temporary or permanent occupancy or use of such air space may be granted. The following requirements must be met prior to leasing:

1. The lease agreement must comply with 23 CFR, Part 710 subpart D.
2. The Department is required to get FHWA approval on all airspace leases.
3. A written request, in the form of a cover memo, from the Region requesting that the parcel be declared future right of way is sent to the Property Management Section along with all supporting documentation including a survey and/or legal description, the appropriate right of way plan sheet with the proposed parcel transposed onto the plan sheet, a detailed explanation of the intended usage, and a completed lease request form.
4. Upon review of the package, the request and the Central Office staff's recommendation, along with all supplemental information, including the proposed lease, will be forwarded to FHWA for its consideration and approval if the proposed lease is located on the Interstate System. If the request is located on any other National Highway System or State Highway System facility, the package will be reviewed by the Property Management Program Manager in the Central Office for approval as FHWA's delegee. FHWA will be consulted as an interested party during the approval process.
5. See the FHWA Airspace Guidance Document for additional information.
6. Income from air space leases will be credited to Revenue Source 6400-21, and the appropriate reporting category rather than to Federal projects.
7. Whenever an air space lease is renewed, or there is a new air space lease request, current fair market value will be established for the lease. Air space leases are designated as such on the Property Lease Report. Necessary precautions must be taken to safeguard the highway use and provide safe use of the air space.

Airspace cannot be leased if it is required currently or in the foreseeable future for the safe operation and maintenance of the highway facility. If such conflicts exist, the existing airspace would be considered unavailable. Under no conditions shall airspace be used for the manufacture or storage of flammable, explosive, hazardous material, or for any other occupation deemed by the Department or FHWA to be a hazard to highway or non-highway users.

7.3.6 – Annexation of Department Owned Property

The general policy of the Department is not to participate, nor execute, annexation petitions prepared by municipalities or private parties. The Department neither supports, nor opposes an annexation election regarding its property. The Department will generally only participate when CDOT needs the annexation to obtain municipal services or to clear up jurisdictional questions related to municipal boundaries. Please refer to Policy Directive 1303.0 and Procedural Directive 1303.1 for further clarification and direction.

7.3.7 – Disposal of Land and Improvements

Procedural Directive 1300.1 states that real property owned by the Department of Transportation is to be reviewed to determine the Department's need for such property. It is each Region's responsibility to evaluate each parcel of property in question and make a determination as to the Department's need. This review should include input from all of the different functions of the Region including traffic, maintenance, access, engineering, planning, etc. to make sure there is no immediate or future need for the property.

If the Region finds that the property is no longer needed for highway purposes including wetlands, greenbelts, wildlife habitats, scenic vistas, or will not be needed in the foreseeable future, this information, with a completed Check List for Disposal of Property form shall be sent to the Property Management Section by memo with the Regional Transportation Director's concurrence, stating their recommendation for sale or disposal. This memo should include the project number, project code, parcel number, date, amount of purchase, legal description, sketch of property, use of the property, improvements on the property and a completed Minor Categorical Exclusion Form. The Region should recommend the best means of advertising, any time limitations, possible buyers, access or lack of access, etc. All the above will be sent to the Property Management Section for review and appropriate action.

The Central Office's Property Management Section will categorize the land in accordance with Procedural Directive 1300.1. When statutes require the sale to the abutting owner, the Department shall have the property appraised to determine the fair market value. If the Department is selling the property to the general public, the property will be sold by auction or sealed bid. In any case, an appraisal must be used to set the minimum amount acceptable (the fair market value). For those properties having value to only the abutting ownership, and there is more than one abutting owner, inquiries should be made to see if any other adjacent owners are interested in purchasing the parcel. If more than one adjacent owner is interested, the parcel will be sold by sealed bid.

An administration fee of \$100 per disposal request will be charged for all disposal requests. If the sale is initiated by the Region, the \$100 administration fee will be waived. The fee is refundable only if the Region or FHWA determines that the disposal request cannot be approved. To be consistent, the administration fee for requests to either dispose of access rights or change access rights is also \$100.

FHWA must approve all changes in access and all disposals or leases on the Interstate System right of way and has delegated its approval to the Department through the Property Management Program Manager in the Central Office for all other National Highway System facilities. FHWA has a strong interest in all disposals and leases on the National Highway System and will be consulted prior to approval by the Department. A completed Minor Categorical Exclusion Form (#128) must accompany all requests for disposal or lease approval.

All disposal costs associated with the sale of excess property or access rights should be passed on to the successful purchaser. This may include appraisal, survey, advertising, and closing costs where applicable. Real estate transactions in the marketplace customarily include all the above costs and are paid for by either the buyer or seller, depending upon how the original contract is written. Disposal of excess property and access rights should not be treated differently just because CDOT is a public agency.

If the excess property is of value to more than just the adjacent property owner, and the original requestor is not the successful purchaser, the original requestor will be reimbursed by the successful purchaser at closing for costs incurred by the original requestor if pre-approved by CDOT.

The following table will be used to determine who will pay what costs:

DISPOSAL COSTS				
	Value to abutting owner only (under \$5,000)	Value to abutting owner only (over \$5,000)	Value to anyone (under \$5,000)	Value to anyone (over \$5,000)
Administration Fee required for both excess property and access rights disposals	\$100	\$100	\$100	\$100
Survey *	Paid by requestor	Paid by requestor	Paid by requestor	Paid by requestor
Appraisal **	Paid by CDOT	Paid by CDOT	Paid by CDOT	Paid by requestor
Advertising Costs	None	None	Paid by requestor	Paid by requestor
Closing Costs ***	Paid by requestor	Paid by requestor	Paid by requestor	Paid by requestor

* At the Region's discretion, the requesting party may be required to provide a survey at the requesting party's expense. This survey, if required, must be provided prior to determining the fair market value of the property.

** Due to Federal regulations requiring disclosure of appraisals paid for by purchasers, the Department will pay for value findings and appraisals to avoid weakening the Department's negotiating position on those excess properties having value only to the abutting owner(s). Those excess properties having value to anyone should be paid for by the requestor and are entitled to receive a copy if requested. Value findings for excess properties under the \$5,000 threshold are allowed by Statute, but are not appraisals and will not be distributed outside the Department. Any parcel estimated to have a value of \$100,000 or more shall be appraised by a Department approved certified general contract fee appraiser per §24-30-202(5)(b), C.R.S. and, at the Department's discretion, by a CDOT staff appraiser. All appraisals will be reviewed by a CDOT staff certified general review appraiser following the guidelines found in Chapter 3 of the Right of Way Manual. Value findings done by a right of way acquisition agent per §43-1-210 (5)(V), C.R.S. will be reviewed by the Region Right of Way Manager/Supervisor following the same process as used for any acquisition outlined in Chapter 4 of the Right of Way Manual, signed and forwarded to the

Property Management Section. The appraisal and resultant FMV shall reference the original project information under which the parcel was originally purchased.

*** If the original requestor is not the successful purchaser, all costs incurred by the original requestor, and approved by CDOT, will be collected at closing from the successful purchaser and then reimbursed to the original requesting party.

1. Categories of Property

State statutes provide for different procedures the Department must take to dispose of property it owns depending upon the appraised value and the type of use. Having received a request to dispose of land, the Property Management Section shall determine whether the property must be offered to state agencies, cities and towns, or counties located within the boundaries of the property and get Transportation Commission approval.

The Department policy for individual requests to sell a specific parcel requires a \$100.00 fee, sent to the Property Management Section in the Central Office, if the Region approves and recommends processing the property to sell. This money is to cover a portion of the minimum administrative costs and is kept by the Department if the requester is the successful purchaser, or if the requester decides they are no longer interested. The administrative fee is returned if the property is offered for sale by sealed bid and the requester is not the successful bidder ; fee is then collected at closing from the successful bidder and then returned to the original requester. When a property is processed and the Transportation Commission or Federal Highway Administration declines the proposed sale, the \$100.00 fee is refunded. The Administrative fee is not part of the sale price; it is in addition to the sale price.

- The Department shall obtain an appraisal from a Certified General Appraiser for all parcels determined to have an approximate value of \$5,000.00 or more to determine the fair market value of such property.
- If the Department determines that the property or interest therein is of use only to one abutting owner or, in the case of an easement, to the underlying fee owner, the abutting owner or underlying fee owner shall have the first right of refusal to purchase or exchange the property or interest therein upon which disposition is being made at the fair market value.
- If the abutting owner or underlying fee owner refuses to exercise the first right of refusal to purchase or exchange the property or interest therein, or if the Department determines that such property or interest is of use to more than one owner or potential owner, any political subdivision of this state including but not limited to any state agency, city or town, or county located within the boundaries of the property or interest therein shall have first right of refusal to purchase or exchange such property or interest at the fair market value. The Property Management Section will send a letter to each appropriate political subdivision offering to sell the property at its fair market value. This offer-letter requires a response from the political subdivision within 30 days of receipt of the offer letter and states that if no response is received, the Department will assume that their non-response indicates they are not interested in acquiring the property. If no political subdivision exercises its right of first refusal to purchase or exchange the property or interest therein the Department shall dispose of such property or interest by means of a sale or exchange for not less than its fair market value.
- For any property or interest therein subject to disposition that the Department determines has an approximate value of less than \$5,000, the Department shall dispose of such property or interest by means of a sale or exchange at not less than its fair market value, except that the Department may employ a Right of Way Acquisition Agent to provide an estimate of the fair market value and to determine to whom such property or interest is of use. This estimate of fair market value must be reviewed by a review appraiser who will, upon approval of the

value, prepare an FMV to be signed by the Region Right of Way Manager or the Property Management Program Manager.

- If the Department is not able to dispose of the property or interest therein by means of a sale or exchange following a diligent effort for a five year period, the Department shall vacate such property or interest and title to such property or interest shall vest in accordance with the provisions of Title 43, Article 2, Part 3, Vacation Proceedings.
- Diligent effort means that the property in question is actively marketed and offered for the entire five-year period.

2. Auction

The Purchasing Department in the Central Office selects an auctioneer each year by contract to be used for Department auctions. The Property Management Section in the Central Office will use the contract auctioneer if available and will obtain all necessary approvals before the auction is held. In the notice advertising the auction, the Department must indicate the CDOT has the right to reject any or all bids. This should also be announced at the auction. The Region shall have a representative at the auction unless prior arrangements are made with the Property Management Section for other representation. The results of the auction will be reported to the appropriate Region as soon as possible. All proceeds will be forwarded to the Accounting Branch, care of Receipts and Deposits the same day by the Property Management Section and will provide the proper coding of the proceeds.

If the improvements require that work be done by anyone other than a Department employee or contractor, then insurance meeting the current statutory requirements must be provided prior to allowing the individual to work on the property.

3. Sealed Bids

The Property Management Section in the Central Office will assemble the bid package with all necessary information such as the description and location of the property, the estimated fair market value of the property, any zoning or usage information, if there is access to the property, the name of the Region personnel available for on-site inspection, etc. Any additional information that may be of value should be attached to the bid package.

The Property Management Section will be responsible for the advertisement and receipt of sealed bids on land and improvements. The Central Office staff will conduct a bid opening, notice will be given to the successful bidder, and deposits, if applicable, will be returned to the unsuccessful bidders.

All ads should specify where bids will be opened, have the address for bids to be mailed and specify the time and place of the opening, with bonding and insurance requirements listed. The Property Management Section will award all bids. The opening place for the bids will generally be at the Property Management Offices.

All proceeds will be forwarded to the Accounting Branch, care of Receipts and Deposits, with the proper coding. If a closing is handled by the Region, then the proceeds will be forwarded to Accounting via the Property Management Section who in turn will provide the appropriate coding for the proceeds.

7.3.8 – Conveyance of Property or Property Rights

All conveyances of property from the Department to other parties or political entities shall be by quit claim deed and without warranties of any kind and subject to all easements. Conveyances may require

restrictions due to historical, archaeological, or other environmental concerns. Each disposal of this type must be reviewed by the Region Environmental Manager to determine the extent of such restrictions.

CDOT takes title as "Department of Transportation, State of Colorado" and CDOT's legal address in 4201 East Arkansas Avenue, Denver, Colorado 80222. The following standard language is to be on all quit claim deeds: "Subject to any and all easements of record and also to any and all utilities as constructed and for their maintenance as necessary."

At closing, a "Closing Statement for Disposal of Property" (Form 255a) is to be completed and signed by the CDOT representative for receipt of the proceeds of the sale, and the Purchaser for receipt of a copy of the executed quit claim deed. Upon closing, original executed quit claim deed is sent by Property management to the appropriate County Clerk and Recorder's Office for recordation. The address of CDOT's Property Management Office should be in the upper right-hand corner of the deed so that it can be returned to the Property Management office for distribution. Six copies are made prior to sending for recordation:

1. Purchaser
2. Appropriate Region
3. Project parcel file
4. Property Management Section at Central Office
5. Acquisition Relocation Unit for entry into the REMS system
6. Right of Way Services Quit Claim Deed Book

The Property Management Office is ultimately responsible for assuring that the original quit claim deed is forwarded to the Purchaser after it is recorded. Copies of the recorded QCD then replace the prior copies sent to the Region, parcel file, and Deed Book

7.3.9 – Disposal at less than Fair Market Value

FHWA may grant an exception to the fair market value requirement if the real property will be used for a social, environmental, or economic purpose per §23 CFR 710.403. These disposals require that a reverter clause be placed on the deed whereby the property would revert to the Department if the approved purpose for which the real property was sold originally ceases. FHWA may approve the exception in the following situations upon written submission:

1. The department clearly shows that an exception is in the public interest for;
 - Social, environmental, or economic purposes.
 - Non-proprietary governmental use.
 - Uses under 23 U.S.C. 142(f), Public Transportation.
2. Use by public utilities as outlined in 23 CFR Part 645;
3. Railroads may be accommodated in accordance with 23 CFR Part 646;
4. Bikeways and pedestrian walkways in accordance with 23 CFR Part 652;

5. 710.403(d)(5) Use for transportation projects eligible for assistance under Title 23 of the United States Code.

7.3.10 – Exchange of Property

"Exchange" means the transferring of property, including improvements, water rights, land, or interests in land or water rights, by the Department to another person in consideration for the transfer to the Department of other property, including improvements, water rights, land, or interest in land or water rights, cash, or services or other consideration thereof, except that any cash or services received may not exceed fifty percent of the total value of the consideration. A transaction otherwise qualifying as an exchange shall not be deemed a sale merely because dollar values have been assigned to any property, including improvements, water rights, land, or interests in land or water rights, for the purpose of ensuring that the Department will receive adequate compensation.

1. Extraordinary Exchanges

For extraordinary exchanges, a determination must be made that the exchange of Department property is for the public benefit. Extraordinary exchanges include the exchange of project property for fixed asset property, construction work or improvements; or the exchange of fixed asset property for project property, construction work, or improvements. Where such extraordinary exchanges are proposed, the Region shall prepare a resolution for the Transportation Commission's conceptual approval and concurrence prior to the initiation of appraisals. A final resolution shall then be prepared outlining the terms and conditions of the exchange after a draft agreement is reached between the parties involved. Extraordinary exchanges generally involve the disposal of Department property, which is of use to more than one owner or potential owner, and therefore are subject to the first right of refusal process set forth in §43-1-210(5), C.R.S.

- a. All requests for extraordinary property exchanges shall be initiated by the Regional Transportation Director in the appropriate Region and sent to the Property Management Section for processing. The request should include the justification for the exchange, a plat of the properties involved, legal descriptions including electronic copies of all parcels involved, environmental site assessments of all properties, and an inventory of improvements where appropriate for any property involved in the exchange.
- b. For extraordinary property exchanges, the abutting owner or any State agency, city, town or county shall have first right of refusal to acquire the CDOT property being offered for disposal. If more than one abutting owner wishes to exchange their property for CDOT property that has no legal access, the Chief Engineer shall solicit proposals from all interested parties. If more than one State agency, city, town, or county wishes to exchange their property for CDOT property, the Chief Engineer shall solicit proposals from all interested agencies. If no one in the first right of refusal process is interested, and if more than one private party wishes to exchange their property for CDOT property, the Chief Engineer shall request proposals from all interested parties. All proposals tendered by parties wishing to exchange their property for CDOT property shall agree, as a part of the proposal, that the Department shall be held harmless and released from any claims related to the selection of one proposal over another. A committee established by the Chief Engineer, with representatives from the Region, the Property Management Section, Right of Way Services, and the Internal Audit Division shall evaluate the proposals. The Chief Engineer shall determine which proposal shall be accepted based upon the recommendation of this committee. All parties submitting proposals shall be notified by the Property Management Section of the Chief Engineer's decision within thirty days after the close of the proposal period.
- c. An appraisal of all parcels involved in the exchange shall be made by either a CDOT staff appraiser or a CDOT approved contract appraiser initiated by the Department. Once a

decision has been made as to who will be selected to exchange their property; and the appraisal and the draft agreement have been completed; a resolution for Transportation Commission approval of the exchange will be prepared. The resolution shall set out all of the terms and conditions of the exchange and will normally be placed on the consent agenda.

- d. If the exchange is initiated by CDOT, and if the parcel being acquired in the exchange is in excess of \$5000, the Department will pay for an appraisal by the property owner in accordance with §C.R.S. 38-1-121, C.R.S. If the exchange is initiated by the other party, the other party will pay for the first appraisal initiated by the Department.
- e. If any parcel in the exchange is complex, or there is a wide disparity in value from the Department's appraisal and the property owner's appraisal, a second appraisal shall be initiated by the Department.
- f. If improvements are being constructed as part of the exchange, the estimated value of any such improvements to be constructed must be included in the appraisal. Several estimates may be required by the appraiser from building contractors or architects depending on the complexity of the plans and specifications of the improvements, so as to determine the value of these improvements.
- g. All appraisals shall be reviewed by a CDOT Review Appraiser and an estimated Fair Market Value (FMV) determination established for the Department for negotiation purposes.
- h. The Department may receive no more than 50% cash or services, along with other land and improvements, which would be equal in value to the property the Department is disposing.

7.3.11 – Disposal of Access Control

1. Existing Access Control Changes

Changes in deeded access are purely discretionary by the Department and are not automatically granted even if requested in the manner stated herein. These procedures are based on applicable state and federal laws governing revisions to and disposal of state and federal property rights and real property. Changes in access deeds are real estate transactions. The FHWA is often involved since highway right of way purchases and construction frequently use federal funding. All state highways eligible to receive federal funding are considered federal projects and as such the Code of Federal Regulations applies. Nevertheless, a cooperative effort with the requester is appropriate, as many such requests may provide positive benefits to the Department and the public.

There is a wide range of types of access changes. This guide does not try to provide a specific process and document package necessary for each. Your judgment and discussions with Property Management Section based on the specific issue will provide more accurate guidance. Access change types include: Closing, relocating, new opening, or widening of a access deed opening along an access control line for vehicular use; an opening or license to cross for a bicycle path or pedestrian path; installation and maintenance access for utilities; overhead structures (flyovers) which may involve access rights and air rights; and cattle crossings (underpass CBC). A license or deed change is required anytime there will be a crossing of the access control line, or change in access by any persons or vehicles whether the need is temporary or permanent in nature.

The initial Region review should determine whether a state highway access permit could be issued at the location. Like an access permit, the request needs to be sufficiently complete to determine the desirability of the request. The request for change should be denied at the Region level if it is determined the access change would be undesirable. There are no rights of appeal.

Assuming the request appears to be reasonably acceptable, the Region should then proceed as follows:

- a. The property owner (or proponent) must submit their request in writing to the appropriate Region Access Manager. The owner must provide a statement describing all the reasons for the proposed change. A preliminary meeting with the Region staff is recommended. In urban areas there should be supporting information from the local government indicating their knowledge and support of the access change. If an application for access permit is received, it should be returned as premature. An application for access may not officially proceed until the issue of access rights is resolved.
- b. In order to accomplish its review, CDOT needs specific and accurate information and documents submitted. A worksheet is available for the owner's use but is not mandatory. Generally, proposals for access changes should include such information as the existing use and the intended use of the proposed access (land use, vehicle volume, and vehicle types), and current legal status such as current ownership and access deeds, property plans, plats, and subdivision maps. CDOT must be able to accurately locate the proposed access changes. It is the responsibility of the owner to provide the legal survey and property descriptions (requires a registered land surveyor). Surveys must be done in accordance with Chapter 2 of the Right of Way Manual. Any new survey needs to have a survey tie to the original CDOT right of way and the project survey stationing (unless otherwise directed by the Region).
- c. A \$100.00 application fee, payable to the Colorado Department of Transportation, is to be collected by the Region office at the time of application (if the request is from a non-governmental party). The fee will not be refunded (or simply returned) except when the Region office denies the request during the very early stages of review or the request is denied by the FHWA. Review begins once the materials and fee are submitted. In some circumstances involving more complex actions and multiple property interests, it may be helpful to require a Memorandum of Agreement to organize all of the owners, developers, their concerns and the interests of CDOT.
- d. The Region is responsible for the review and processing of the request. The criteria for review includes in part, conformity with the State Highway Access Code, conformity with federal requirements (environmental), improved highway design, operation and public safety, long term benefits to the highway, and the preservation of necessary highway right of way for future highway reconstruction. If the Region decides that it does not wish to grant the proposed access change, the process ends. If the Region requires more information, a request is made to the property owner. If the Region supports the requested change(s), the Region forwards a prepared package of information and proposed deeds to the Property Management Section in the Central Office.
- e. It may be necessary to conduct an appraisal of the property if, in the determination of the Region, the proposed access revision appears to effect a change in property value. An appraisal, and subsequent appraisal review, must be completed (or contracted) by the Region. The appraisal is done in accordance with CDOT procedures and by CDOT authorized appraisers as outlined in Chapter 3 of the Right of Way Manual. This can be done once it is reasonably clear that the proposal could be approved. The Region will contact the owner once the value determination has been completed.
- f. If, after the appraisal process is complete, it is determined that there is an increase in property value, a FMV is completed and the owner must pay the difference. The costs of access improvements required by a state access permit or any other improvements necessary, may not be deducted. Payment of that value is required by CDOT at time of closing. Any net proceeds are credited for reallocation to an eligible highway project within the respective Region.

- g. If the vehicular access will be a public street, additional approvals may be required if the highway is a designated freeway by the Commission pursuant to §43-3-104, C.R.S. This also involves additional approvals from the local government. A proposed public street may also affect the appraisal procedure depending upon the importance of the street in the regional transportation plan. In some circumstances, the access rights can be relinquished to the local government (not the private owner) without appraisal or payment.
- h. The request package, including a completed Minor Categorical Clearance (Form 128), is forwarded by the Region with a cover letter including any necessary details and a positive recommendation regarding the request. The Property Management Section completes the final approvals. Final approvals depend in part on the type of highway, any environmental, and historical impacts and the accuracy and completeness of the proposed deeds. If access control changes (or any right of way revisions or occupancy) involve the federal interstate system including any access, utilities, interchanges, overpasses, and underpasses, reviews and specific approvals are required from the FHWA.
- i. After approvals are completed, final deeds are completed and then exchanged between CDOT and the property owner(s). If the appraisal determines that there is an increase in property value, then the owner must pay the difference at the time of closing. The Region will have the deed(s) recorded at the appropriate county clerk's office, keeping the Region copies, returning the appropriate original(s) to the property owner, and providing the CDOT original(s) to the Property Management Section for the Right of Way Services Quit Claim Deed Book.
- j. For vehicular access, after the deed process is completed, the property owner submits an Application for Access Permit (Form 137) to the Region in order to obtain an Access Permit. An Access Permit should include, in addition to normal terms, and special conditions that the deed change process specifically identified (if any). This should be a reasonably quick process since the Region will be very familiar with the access request. The access permit fee must be paid. Upon receipt of the completed and signed access permit, construction of the access by the applicant may begin.

2. Access Licenses

There is an alternative to some requests for access control line revisions, deeded openings and requests for access. CDOT is allowed to give permission to cross access control areas for special conditions, usually either short term temporary need, or for very low volume motorized vehicle access to utility vaults, irrigation systems, emergency gates, rest area maintenance, or non-motorized crossing for bicycles, pedestrians, equestrians, and cattle. No rights of access are actually released to the adjacent owner. Access to and from the main highway is often prohibited depending on the situation and the highway status. This is done with a special license form. The license is revocable at anytime. The Property Management Section and FHWA approvals are still necessary, but the process is less difficult.

3. Appraisal Guide for Change to Existing Access

This is a general guide specifically for changes in access deeds. Chapter 3 of the Right of Way Manual on appraisal takes precedence and should be reviewed in addition to this guide.

- a. What needs to be appraised? Basically, when there is a proposal to revise an access control deed to determine if there is an increase in value to the private parcel. Such as:
 - Change in the number of openings (increase or consolidation in openings).
 - Change in access location.

- New access where no previous direct access existed.
 - Where use of the access will change (farm to business) when the current deed is specific as to land use intended, or too narrow to support highest and best use.
 - Any increase in access opening width (i.e., 17 to 35 ft) to accommodate development.
- b. The decision to select the level of appraisal, (letter, short form, or full appraisal) is based upon a Region evaluation or memo, with written support and documentation showing degree of research completed that supports the selection. Initial review should include the original acquisition file. Such review should determine if the A line was obtained using compensation, or by police powers. If payment was made for original CDOT acquisition of the access deed, the reasons and scope of the payment, claims and settlement issues should be carefully reviewed for applicability to the requested revision.
 - c. In the case where the appraiser determines that there is no discernible change in value due to the proposed change in access control, a letter appraisal to that effect will be sufficient. To support the appraiser's conclusions, all appraisal aspects of the access control change should thoroughly investigated and reported. These letter appraisals shall be reviewed and concurred by a reviewing appraiser stamping or writing "This Value is Approved" and the date of concurrence.
 - d. Where there would be a discernible change in property value due to access modifications, and the value change can be supported by sales data, a full before and after appraisal shall be done followed by a full Fair Market Value (FMV) determination. Similar to the sale of excess property, the FMV for a deed revision requires the approval of the Region Right of Way Manager or the Property Management Program Manager.
 - e. The Region or Permittee/Property Owner may provide an estimate of value for the access improvements to the highway that are of some benefit to the highway and the public. This value is based upon the CDOT cost estimate book or upon actual construction costs. Such value can be used to reduce the FMV to the extent allowed by CDOT. Costs of access improvements necessary for the property as required by the Access Code are not deductible since state statute requires the permittee to pay for access improvements.
 - f. Permittee/Property Owner pays the difference, if any, at the closing.

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SECTION 4 – CODING FUNDS FROM THE SALE OR RENTAL OF PROPERTY

Credit to federal funds is not required on the income received from the rental or sale of Department property as long as the Federal pro-rata share of the project income is used for Title 23 (Transportation) eligible projects. Oil, gas, and other mineral rights are real property interests, and as such the Department may sell or lease such interests for fair market value and retain the federal share of net income for use on Title 23 eligible projects. The following procedures change the way in which income from the sale or rental of property is coded to the system. These changes are the result of legislation in TEA-21, which eliminates the requirement that income from property be credited back to the project. **Income from the sale or rental of property will be credited to the following revenue codes and may not be coded directly to a particular project:**

CODE	TYPE OF REVENUE
6100 72	Oil and Gas Royalties; Coal, Mineral and Water Revenue
6400 21	All rent from Air Space Leases (except Wireless Sites); Rent from Project Property
6400 71	Rent from Fixed Assets – Land Only (i.e. Rent of Parking Space to St. Patrol)
5200 70	Administrative Fees Charged to Others for Sale of Maintenance Sites
5200 71	Administrative Fees Charged to Others for Sale of Project Property, Including Access Rights
6400 70	Rent from Fixed Assets – Land & Buildings (Mtc Sites, Employee Housing, & Offices)
6400 72	Rent From Air Space Leases (Wireless Sites)
6502 73	Sale of Project Property
6500 74	Sale of Fixed Assets – Land & Buildings (Mtc Sites & Offices)

Each Cash Receipt transaction related to one of the above will be coded as follows:

Approp:	500 Rev/Sub Rev: (as above) RPTC: The appropriate reporting category for the Region of Origin, or to 0262, depending on the Rev/SubRev.
B/S	2740 RPTC 0262. This balance sheet is used for the deposit of security deposits only .

The project history for all sales and leases will continue to be tracked on the REMS system and reconciled to COFRS by on a monthly basis. For parcels that are to be traded, the net amount received from the exchange of excess or remainder property will be credited to the appropriate revenue account. A check for any balance due to the property owner will be made from the active project. No administrative fee will be charged for sales or exchanges on active Right of Way Projects.

The income from property disposal and rent of fixed assets will be recorded in COFRS using the Region Reporting Category (RPTC) as follows:

	RPTC for Project Related	RPTC for Maintenance Sites & Offices
Region 1	1000	1500
Region 2	2000	2400
Region 3	3000	3200 (Grand Junction Area) 3600 (Craig Area)
Region 4	4000	4100
Region 5	5000	5300 (Durango Area) 5700 (Alamosa Area)
Region 6	6000	6800
HQ		0262

Ten percent (10%) of the property sales revenue received in these cases will be retained to be budgeted to the ROW project established for disposal costs (current project number 11354, C SW00-064) which is identified by the HAA NONPA line of coding. The balance (90%) of the property sales revenue will be allocated by OFMB on a quarterly basis as follows:

- 90% of revenues collected in revenue source codes 6502 73, and 5200 71 will be allocated to the appropriate Region Unallotted Pool.
- 90% of revenues collected in revenue source codes 6500 74, and 5200 70 will be made available for Property Projects, based on Property Committee approval procedures.

The revenues from property rental and royalties will be allocated as follows:

- 100% of revenues collected in revenue source codes 6400 70 and 6400 71 will be made available for Property Projects, based on Property Committee approval procedures.
- 100% of revenues collected in revenue source code 6400 72 will be allocated by OFMB to fund certain ITS projects.
- Income in revenue codes 6100 72 and 6400 21 will not be identified to Region nor will they be subsequently allocated to Regions.
- As allocations are made by OFMB, Business Managers and other appropriate personnel will be notified.

It is the responsibility of the Department to recover fair market value for all property sold or traded. The Department must select the method of sale which will best achieve this aim and still be within the state laws. It is the policy of the Department to dispose of all property, which is not needed for highway purposes, now or in the foreseeable future except wetlands, greenbelts, wildlife habitats, or scenic vistas.

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SECTION 5 – PROPERTY INVENTORY

7.5.1 – Property Inventory

The Property Management Section maintains an inventory record of all property owned or leased by the Colorado Department of Transportation (CDOT) except right of way.

1. Types of Property

Although all properties are carried on the inventory, the purpose of dividing property into categories is that general ledger property must also be listed in the asset records of the Department. The Accounting Branch shall be responsible for the official General Ledger Inventory. However, the Property Management Section will keep the official property files containing the deeds and correspondence. There are two general categories of property as follows:

- a. **General Ledger Property** is property paid for by CDOT funds not programmed for highway projects. Examples of this type of property are maintenance sites, office buildings, Ports of Entry on CDOT property, employee housing, and donated land and/or improvements that are not a part of the highway right of way. Under Federal Regulations, the general ledger property cannot be paid for by project funds. There should be a distinction between right of way lines and maintenance site property lines.
- b. **Project Property** is property paid for by highway project funds and not listed as an asset unless converted to General Ledger Property. Examples of this type of property are remainder parcels, excess parcels, joint use property, future construction property, and rest areas inside or outside of the right of way.

2. Explanation and use of Property Numbers

In order to identify the property in question, the property number should be used on all correspondence, documents, transmittals, etc. This includes both buildings and land. A number will be assigned to all property used by CDOT for offices, construction, maintenance, or any other purpose, for properties leased by CDOT, or CDOT owned property leased to others. All property turned over to the Property Management Section from the Regions will be included on the inventory by the Property Management Section. The Property Number will have the following configuration: P 00-000-000 where the first character denotes the type of property and is either "P" for project property or "G" for general ledger property. The second set, consisting of two characters, indicates the county where the property is located. Here the county number is used, i.e. 01 = Denver, 12 = Adams, etc. The third set, consisting of three characters, indicates a property number within that county. These characters will be assigned in sequential order as the property is acquired. For example if we have ten properties, the next one acquired will be 011. The fourth set of characters, consisting of three characters, designates a building number on that particular piece of land: 00 denotes vacant land, 01 denotes building 1, 02 denotes building 2, etc. Refer to the Users Manual, Fixed Assets, for other procedures in this area.

3. Official Records

- a. **Site Maps** - In accordance with the Memorandum of Understanding between the State Board of Registration of Professional Engineers and Land Surveyors and the Colorado Department of Transportation: The Board acknowledges the Department's determination that the Department is not required to monument remainder tracts or ownerships outside of the Department's right of way lines. When the Region Right of Way Manager and the Property Management Program Manager determine that a survey is required on a specific property the survey shall be performed under the supervision of the Region Surveyor and the site plan, or

revision, shall be prepared by the Region Right of Way Section, or contract surveyor under the guidance of the Region Surveyor, in accordance with the requirements of Chapter 2 of the Right of Way Manual. Any such site plans produced shall be recorded by the Region Surveyor and a copy forwarded to the Property Management Section.

- b. **Records** - A file will be kept on all general ledger and project numbered properties. This file will include all documents and correspondence pertaining to the property. Examples of documents are: deeds, plats, leases, approvals, etc. These files will be filed numerically by property number. Remainder parcels not being leased will be maintained on the state-wide inventory, but shall be filed by project or subaccount and parcel number in the Right of Way Services file room.
- c. **Inventory of all improved property** - When the Region closes on a parcel of excess or remainder land with improvements, the Region will immediately forward a copy of the inventory (CDOT 433) by cover memo to the Property Management Section. If the Region retains the excess or remainder parcel with improvements for Region purposes, the cover memo shall explain how the parcel will be used and the contact person regarding the use. A "P" number will be assigned and the Region will be given the number so that any future correspondence will reference the particular file.

7.5.2 – Real Estate Classifications

1. Project Land and Improvements

This type of property is acquired as a portion of the right of way project and is declared as an excess or remainder parcel. The procedure to acquire this type of property is explained in Chapter 4 of the Right of Way Manual. When this property is acquired in such a way as to be classified as project property (rentals, joint use, etc.), the Property Management Section will add it to the Excess Property Inventory. In an effort to provide accountability of property acquired by purchase on right of way projects, the following procedures should be observed:

- a. For businesses, an inventory of real property will be conducted by the Appraisal Contract Administrator and CDOT Form 433 completed. The personal property inventory is completed by the Region at a later date.
- b. The inventory is provided to the property owner, Region, appraiser, Property Management Program Manager, Acquisition Relocation Unit Leader, and the main project file. The appraiser values realty items in the appraisal. Those items designated as realty will be purchased and kept with the property. Fluctuating inventory (stock in trade) is not considered a part of this inventory.
- c. When acquisition of a parcel is completed and the property is released to the Property Management Section, the Region will submit their inventory record (CDOT Form 1016) to the Property Management Section under cover of a memorandum with a check list for disposal or lease request form explaining the current status of the property including such items as condition of the improvements, whether the property is occupied or vacant, whether the property has been winterized, status of utilities, and whether it is to be leased, demolished, sold, transferred, etc.
- d. The inventory, CDOT Form 1016, will be reviewed by the Region and the Property Management Section through an on-site inspection before the property is turned over to Property Management. Discrepancies in the inventory must be documented in writing to the project file by the Region. The keys to the property, and responsibility for the property, will then be assumed by the Property Management Section.

2. General Ledger Land

When there is a need to acquire land for uses including maintenance sites, port of entry sites, office buildings, etc., and a project for the acquisition has been programmed and included in the Property Plan:

- a. The Region, the Property Management Section, or both will make the initial decision as to what land will be acquired (Property Management may be consulted on costs of various alternatives). The Region may contact the Property Management Program Manager for an appraisal of the property if they have no resources available to complete the appraisal. The subsequent appraisal, after it has been reviewed by a review appraiser, will determine if the asking price is reasonable and/or set the amount to be offered for the property by completing an FMV.
- b. If this amount is within the budget programmed for the acquisition, justification is submitted through the Property Management Section to the Chief Engineer indicating the cost of the land and improvements for Transportation Commission approval if the site is not already authorized in the current Property Plan.
- c. After approval, the Region or the Property Management Section will execute an agreement to purchase the property, contingent upon the grantor having negotiable title.
- d. The Region/Property Management Section will have a title insurance company prepare a title commitment on the property.
- e. The agreement, title commitment, and any other pertinent documentation will be reviewed by all necessary parties. The Property Management Section may send the title commitment to the Attorney General's Office for an opinion if considered necessary. When the title is acceptable, the Region/Property Management Section will prepare the necessary deeds, releases, and any other documents necessary for transfer of the property, assign a property number, and order the warrant by the same procedure used in right of way acquisition.

3. General Ledger Buildings

When the need arises for new or additional capital improvements in the Region:

- a. The Region will prepare a location map and complete the Architect's Questionnaire for the needs analysis regarding the improvement. The building will be identified with a property number. If this number is unknown, the Property Management Section will provide it. In most cases, a number will have been assigned to the land. This number will be used with the addition of a change in the last three digits to signify a new building.
- b. The map, needs analysis, justification, and requisition, will be sent to the Chief Engineer, via the Property Management Section, for Transportation Commission approval if the improvement is not already authorized in the current Property Plan.
- c. After approval, the Property Management Section will process the package through the State Buildings process per §24-30-1300, C.R.S. See Section 13, Capital Construction for specific details on the process.
- d. Upon building completion, the Region will complete an Inventory Change Form and submit the original to Accounting, Inventory Control, with a copy to the Property Management Section to update the master inventory. The Property Management Section will be furnished a data processing run periodically from Inventory Control (Accounting) indicating the cost of all capital improvements.

4. Moving of Buildings

When the Region moves a building from one piece of land to another or attaches it to another building on the same piece of land, notification must be given to the Property Management Section in the Central Office and Inventory Control by completing an Inventory Change Form with the appropriate changes so that the inventory number can be changed or deleted. This is necessary so that the inventory building numbers can be reconciled with the land numbers. When a building is attached to another building, this becomes one building, and the building that was added assumes the number of the existing building. The moved building, with its associated building number, will be deleted from the land record and the pertinent file will be added to the new land record. **Inventory numbers will only be used once and may not be reused once the number has been deleted.** If an improvement has been transferred to another Transportation Division or Region, the Property Management Section must be notified by that Region or Transportation Division so that a new number can be assigned if necessary.

5. Department's Use of Land Inside highway Right of Way

When land inside the right of way is needed for a maintenance site, the Region will notify the Property Management Section in the Central Office. The Property Management Section will obtain FHWA approval when federal funds are involved in the right of way. In certain situations, a sale or trade may be a consideration. A pay back of federal funds may be necessary. The Property Management Section will assign a property number after the project property has been converted to general ledger property. The Region will then complete and submit an Inventory Change Form to Inventory Control, with a copy to the Property Management Section that includes the FMV for the original acquisition so it can be added to the Asset Record Inventory.

6. Donations

When land and/or improvements are donated to the Department for use as a maintenance site, the Region must submit a letter, donation form, deed/bill of sale to the Property Management Section in the Central Office for inclusion in the property inventory. The Property Management Section will furnish the Region and Inventory Control with the new property number. The property inventory must include the fair market value for the property at the time of donation. Inventory Control will update the Asset Record and send a copy to the Region.

7. Encroachments

Colorado Department of Transportation policy does not allow encroachments within the right of way limits pursuant to §43-5-301, C.R.S. Awnings are specifically allowed to hang over the right of way pursuant to §43-1-421, C.R.S. Existing encroachments may only be allowed to continue under the following criteria:

- a. The encroachment must have been in existence on or before January 1, 1983.
- b. The adjacent property owner who is encroaching must request that an encroachment license be prepared and executed which includes clauses whereby the holder agrees to save and hold the Department harmless under all circumstances, the encroachment cannot be increased in size, if in the future the structure that is encroaching is damaged the encroachment will be removed and will not be allowed to be reconstructed, the license contains a 90 day cancellation clause, the license is not transferable without written permission by CDOT, and other terms and conditions as may be needed to protect and preserve the highway right of way.
- c. The licensee agrees to purchase insurance that is no less than the current statutory requirements and names CDOT as an additional insured.

7.5.3 – Updating Property Asset Record

The Department must keep an asset record of all general ledger property. This record indicates the value placed on each property and must be updated whenever a capital improvement and/or deletion is made to the property for either land, buildings, or both. The record of such change shall be documented in the file in the form of a new land or building inventory sheet. Inventory Control, located in the Accounting Department, is responsible for this asset record and the Property Management Section will maintain the official record for each property. A copy of the asset record is forwarded on a quarterly basis to the Property Management Section.

1. Capital Improvements

For the purpose of the asset record, a capital improvement shall include additions, extensions, improvements, renewals, replacements, or betterments which;

- a. Change the building size.
- b. Increase the use, value, or quality of the building.
- c. Increase the building's life.

While the cost is not the determining factor, a capital improvement is generally a large cost. Expenses to maintain the building in good operating condition over its normal life, which do not increase the size, life, use, or value of the building, are not to be considered capital improvements. The Region handling the expenditures shall determine, with input from the Property Management Section in the Central Office and per Procedural Directive 60.1, whether an expenditure is an expense or a capital improvement.

2. Change in Asset Records

The following COFRS Objects will be used when charging to Department owned property:

- 6110 - Administrative maintenance sites and equipment depots, rest areas, scenic overlook buildings, and building improvements.
- 6120 - Administrative sites and equipment depots (land, including gravel pits).
- 6180 - Reimbursement of expenditures

Function 4003 is to be used to distinguish these charges as improvement expenses rather than maintenance expenses. The cost information from this code sheet is stored in Accounting and will provide a listing of these charges upon request. All charges are cumulative and an annual statement can also be provided upon request. Accounting will reconcile the monthly statement with the invoices issued and at the end of the fiscal year; each Region will be furnished a copy of the yearly statement. The Region shall compare this with the actual improvements done to verify all updates done to each asset record. The result of this review will be sent to Inventory Control where any necessary corrections to the asset record will be completed. A final corrected report will be compiled and provided to the Property Management Section, the Office of Policy and Budget, and the State Office of Planning by Accounting. A physical inspection will be made annually by the Region in accordance with §24-30-1303.5 with appropriate instructions for the physical inventory of all buildings and land. When a damage or loss occurs to a property, this must be represented in a change to the asset record unless this damage or loss is being repaired or replaced. Report all damage or losses to the Department's Administrative Services Center, Risk Management Unit, as general ledger property is insured via a separate insurance policy. The Risk Management Unit will gather the necessary documentation, submit a claim for the

repair/replacement of the facility, minus the standard deductible, and upon receipt of monies from the insurance company, will deposit those monies into the appropriate account for the Region to replace/repair the facility. If repair or replacement occurs, any improvement as to use or value must be included in the asset record. The cost to correct the loss must be separated from the cost of any additional improvement to the building on the code sheet.

3. Change in Insurance

Currently, the Department has a separate insurance policy for general ledger property so all assets must be updated as to value every year by the Region. Inventory Control must keep the Administrative Services Center aware of any changes. In order to do this, Inventory Control shall furnish the Administrative Services Center one copy of the corrected quarterly statement of changes in the asset records.

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SECTION 6 – EMPLOYEE HOUSING

The Property Management Section maintains the physical and computerized records for all employee housing leases. Each Region or Maintenance Section should designate one individual to assure that all forms are completed properly, signed by the employee and appropriate Region/Maintenance Section official, and are submitted to the Property Management Section for processing. All START and STOP Payroll Forms must be submitted prior to the 15th day of the month the payroll action is required or the rental fee must be collected from the employee until such time as the deduction is made via the payroll action and forwarded to the Property Management Section for deposit and appropriate credit.

1. Lease Requirements

The standard employee lease should always break out the rent and utilities separately for verification of compliance with the latest Employee Rental Survey. The lessee shall pay all of the utilities for the Employee Housing Unit and must reimburse the Lessor (CDOT) for any prorated share of those utilities paid by the Department. All forms, agreements, and the first month's rent, and utilities if required, shall be sent directly to the Property Management Section in the Central Office for final processing and execution and the Start and Stop Payroll deductions can be processed in a timely manner.

a. Employee Lease Agreement

(1) (For employees of CDOT)

Three Originals of the Lease Agreement must be signed by the employee and the Maintenance Superintendent or delegee. The Property Management Section will forward the leases for the Chief Engineer's signature.

(2) (For employees of other agencies)

Three originals of the Lease Agreement must be signed by the employee, the Maintenance Superintendent or delegee, and by the Employee's Supervisor. The Property Management Section will forward the leases for the Chief Engineer's signature.

b. Request for Authority to Require an Employee to Live in State Housing (CDOT 1146)

Must be signed by the Maintenance Superintendent or delegee, and the Controller.

c. Utility Disclosure Form (State Owned Housing)

This form requires the employee's signature, completed and checked by the designated Region/Maintenance Section representative responsible for Employee Housing, and submitted with the lease. The form should be completed in full and if the utilities are not metered separately, the predetermined amount being charged for the employee should be added to the rental rate for payroll deduction.

d. Community Rules and Regulations (State Owned Mobile Home Parks)

This document must be reviewed with the employee, if applicable, and signed by the employee. This form is to be submitted with the lease package also.

e. Start Payroll Deduction

The form must be signed by the employee and the rent deduction amount, where the employee is sharing a meter with the Department, shall include payment for utilities. This

form must be submitted to the Property Management Section prior to the 15th day of the month prior to the month the rent deduction is to be made. If this is not possible, the employee must pay the rent at the first of the month in which the payment is due.

f. Stop Payroll Deduction

The form must be signed by the employee and the Maintenance Superintendent or delegee. This form must be submitted to the Property Management Section prior to the 15th day of the month preceding termination of the lease so that sufficient time is given for Payroll to process the request and the lease record can be revised.

g. Lead-Based Paint Disclosure Form

This form must be signed by the employee and the Sup't, even if the employee is providing their own trailer. If this is the case, NA (not applicable) should be written on the form, signed by both the employee and Sup't and then returned in the package.

2. Utilities

If employee housing mobile home pads currently share the Department's meter for gas and/or electric, the Region/Maintenance Section should contact the local utility company and give them the size and location of the mobile home and ask for an estimate of utility charges. This amount should be noted in the lease file and a new questionnaire for State Owned Housing should be completed explaining how the determination was made. When possible, separate meters should be installed at each mobile home pad site so the employee becomes responsible for utilities consumed.

3. Security Deposits

Historically, the Department has not required a security deposit from the tenant when the tenant was a CDOT employee. Due to recent damage incurred to Department owned houses and mobile homes, a security deposit will be required from new tenants prior to occupying the house or mobile home. The security deposit will be \$250.00, and will be submitted as part of the lease package to the Property Management Section for processing. The security deposit will be coded as outlined in Section 4, "Coding Funds from the Sale or Rental of Property."

A Move In/Move Out Checklist will be utilized to document the condition of the premises prior to tenant occupation and immediately after vacation of the premises. A letter will be sent to the vacating tenant detailing any items that money is being retained to repair or replace, along with a warrant for that portion of the security deposit being refunded to the tenant. The refunding of security deposits will be consistent with State Statute, so **immediate notification is critical to meet the statutory deadlines**. The request asking for a refund of the security deposit, minus any deductions to fix or replace any deficiencies, should be sent to the Property Management Section with the appropriate documentation as soon after the tenant vacates as possible.

4. Revenue

Revenue generated from the leasing of employee housing will be deposited into the Employee Housing Project and coded to 6400 70 as rent from fixed assets – land & buildings (Mtc. Sites, Employee Housing, & Offices). 100% of the revenues collected will be made available for property projects pertaining to employee housing. Requests should be submitted to the Property Management Program Manager for review and submittal to the Property Committee.

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SECTION 7 – CONSTRUCTION PROGRAM

7.7.1 – State Buildings Program

The State Buildings Programs (SBP) operates under the authority of State Statute, §24-30-1300, C.R.S. The Property Management Section's Architect is delegated the authority to administer this program for the Department.

This delegated authority is for those buildings which are constructed with public funds and state employees are housed or have office space in the buildings. A Policies and Procedures Manual is published by State and followed by CDOT. This program is a Turn-Key Operation for CDOT building projects, from consultant selection through final closeout of the project and 6 and 11-month warranty inspections.

The Department has developed the concept of a Prototype Vehicle Maintenance / Storage Facility which can be modified depending upon the individual needs of the site and its personnel. An Agreement is in place whereby the Architect can begin developing the maintenance/storage facility project within a very short time. This process will allow the vehicle facilities to be designed, built and operational in a shorter period of time with increased functionality and better quality.

For all other building design projects State Buildings has a process in place whereby architects/consultants can be hired in a very streamlined process when the consultant fee is less than \$50,000.00 and the estimated cost of construction is less than \$500,000.00. This process allows for selection from one of the SBP 5 Regions of three pre-qualified Consultants, conduct an interview, written or oral, make the selection, and have a signed Agreement in a matter of days instead of months.

All contractor payment applications will be forwarded with the detail from the vendor to CDOT via the architect. Upon receipt of a contractor payment application, the Property Management Program Manager will recommend payment and forward to the Chief Engineer for signature. After signature by the Chief Engineer, the Property Management Section's Architect will execute the payment application and forward the application to the Business Office for processing. If the payment application is for architectural services, the Property Management Section's Architect will certify receipt of the product and the Property Management Program Manager will approve for payment and forward the application to the Business Office for processing.

1. Contract Processing for Property Management

- a. At no time will a contractor be allowed, or authorized, to start work prior to receiving a "Notice To Proceed" letter signed by the Property Management Program Manager.
- b. Request for architectural/engineering is received or initiated.
- c. Scope of work is prepared by the Property Management Section in conjunction with requestor.
- d. If architectural/engineering services are estimated to be less than \$50,000 and the construction costs are less than \$500,000, then three firms will be contacted by the State Buildings delegee under the State Purchasing "As Needed Program Shortlist for State Buildings" to solicit a proposal per the scope of work. If the services are over \$50,000 and the construction cost is over \$500,000 then PM will advertise and solicit a request for qualifications from all interested firms.
- e. Each request, solicitation, proposal, contract, and Notice to Proceed will be entered into a log by the PM Program Assistant and tracked, with the respective dates, from inception to closure.

- f. Upon receipt of the proposals, the State Buildings delegee will evaluate each proposal and choose the most responsive proposal.
- g. The delegee will provide the necessary details to PM Program Assistant, who will draft the contract for proposed services.
- h. The contract will be reviewed by the State Buildings delegee, and if acceptable, the program assistant will route the contracts for signatures.
- i. Upon full and proper execution of the contracts, a "Notice To Proceed" letter will be generated by the program assistant, signed by the Property Management Program Manager, and sent to the firm with an original copy of the contract.
- j. As invoices are generated and sent to PM for payment, the invoice will be logged, the State Buildings delegee will review each invoice for accuracy, and the program assistant will process for subsequent payment by the Business Office.

7.7.2 – SPCC Plans

Many of CDOT's maintenance facilities are located in remote areas where local petroleum supplies are either few and far between, are not open 24 hours a day, or cannot be relied on to be available on an emergency basis. As a result, CDOT stores petroleum fuels in Aboveground Storage Tanks (ASTs) at these maintenance facilities. Some of the maintenance facilities store waste oil from vehicle operations and maintenance in ASTs also. Tack oil is another petroleum substance that can be found in ASTs at some maintenance facilities. These sites are regulated under the Federal Clean Water Act if either of the following is true: any individual petroleum AST is in excess of 660 gallons or, the sum total volume of all of the petroleum ASTs exceeds 1320 gallons.

Such regulated sites are required to have a Spill Prevention, Control and Countermeasures (SPCC) Plan. These plans tell you how to prevent a spill, what to do in case of a spill and who to call. One copy of the plan is present at each facility that falls under the regulations. The regulations require that all site employees be trained in the use of the plan. The SPCC plans are only a few pages long and are relatively easy to understand. Regulations also require that the plans be renewed every three years. If there are significant changes (i.e., location of the AST, additional tanks installed, drainage alterations), then the renewed plan must be signed off by a professional engineer. If there are no significant changes, then the site manager can simply insert a signed sheet of paper that states that the plan was inspected and there are no significant changes. If you have any questions concerning these plans please contact the local maintenance supervisor, the regional safety or hazardous materials officer, the regional environmental office, or the Property Management Hazardous Materials Unit at CDOT headquarters.

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Section 8 – LANDSCAPING IN THE RIGHT OF WAY

7.8.1 – General

Landscaping, as used in this Section 8, means to alter the appearance of a piece of land by planting trees, shrubs, flowers, grasses, and the like. It does not mean changing the contour of the land. Any grading work would need to follow the policy criteria for grading. It also does not mean placing any other items in the right of way other than those noted. The Colorado Department of Transportation (CDOT) may permit the beautification of the right of way by the adjacent landowner, local municipality or other interested party when it does not compromise the integrity and the safety of the highway.

7.8.2 – Eligibility

To be eligible to obtain a permit to landscape within the State Highway rights of way, the applicant must meet one of the following criteria:

- The applicant is the adjacent land owner to the State Highway right of way the applicant wishes to landscape;
- The applicant is a local public agency whose jurisdiction encompasses the State Highway right of way the applicant wishes to landscape;
- The applicant intends to sponsor the landscaping of an interchange or rest area. This sponsorship, and all related criteria for sponsorship and subsequent acknowledgement signs, will be consistent with the current Adopt-A-Highway program.

Areas that are not eligible for landscaping without special pre-approval are:

- Areas containing environmental restrictions as identified during environmental clearances conducted prior to approval of the initial permit for the permitted area.
- Areas under construction, or planned to be under construction. Please note: any permits in existence at the time construction begins, are deemed null and void at that time. Permits are automatically reinstated for the remaining period of the original permit upon completion of the construction.
- Any median that separates traffic lanes on the Interstate Highway System.

Areas that may be eligible on a case by case basis are:

- Any median that separates traffic lanes on the State Highway System. Each request must be reviewed with the safety of the motoring public as the overriding consideration.
- Rest areas or other locations with the approval of FHWA.

7.8.3 – Responsibilities and Requirements of Permittee

All operations shall be done in accordance with the conditions, requirements, and guidance set forth in the permit itself.

- **Insurance:** A copy of the permit and proof of liability insurance in the amounts required herein shall be available on site while the work is being done and proof of liability insurance must be submitted annually to the permitting office for as long as the landscape permit is valid. Each permittee must provide Comprehensive General Public Liability (PL), and Property Damage (PD) Insurance (minimum) on both the permittee and any and all contractors the permittee may use for landscaping activities;

- Combined single limit - \$600,000 written on an occurrence basis.
 - Any aggregate limit will not be less than \$1 million.
 - Permittee must purchase additional insurance if claims reduce the annual aggregate below \$600,000.
 - Certificates of Insurance to be provided to CDOT prior to issuance of a permit.
 - Insurance shall include a provision naming CDOT as an “Additional Insured” on the Insurance Certificate.
 - Insurance shall include a provision preventing cancellation without 60 days prior notice by certified mail to CDOT and must be in effect for the entire period of the landscaping permit.
- **Access:** Access to the permitted State Highway right of way shall be from the Adjacent Landowner’s property only. In the case of a local public agency, access may be granted elsewhere with the approval of the Region’s Traffic Engineer with an approved traffic control plan, and appropriate traffic control devices placed according to the approved traffic control plan.

Access to the permitted landscaped area for all State Highways including Interstate and controlled access highways is limited to the use of gates provided in the State Highway right of way fence via the adjacent property. If no gate exists, one may be installed by the permittee at a location designated by CDOT, at the permittee’s expense, and shall meet CDOT’s current standards. The gate becomes the property of the CDOT. CDOT shall provide a lock for any gate installed for access to any right of way abutting interstate. A lock on all other rights of way access shall be at the discretion of CDOT. The permittee shall coordinate access through the gate with the CDOT’s local maintenance patrol. The gate shall not be used for any other purpose than conducting landscaping activities as authorized by the permit. CDOT reserves the right to open the gate at any time as it deems necessary.

Under no circumstances may the permittee enter or leave the permitted area using the main traveled-way of the State Highway. The removal of fences to facilitate ingress and egress to the State Highway right of way is strictly prohibited. CDOT is not responsible for providing access roads outside the State Highway right of way line. The permittee shall be responsible for keeping all livestock off of the CDOT’s State Highway rights of way at all times. Parking, loading and/or off-loading of equipment on the paved shoulders of the State Highway is prohibited. Permittees are not allowed to access the state highway under any circumstances from the landscaped area.

Prior to approval and issuance of the landscape permit by the appropriate Regional Traffic Section Permitting Office, if the permittee will be crossing over the established access control line, a license must be executed. A request package to cross the access control line must be prepared and submitted to the Property Management Section for approval of the crossing. Refer to the Approval Process below.

- **Safety and Operations:** Operations will be permitted during daylight hours only. If CDOT determines the landscaping operation is creating an undue safety hazard, all operations will cease until further verbal notification to the permittee.

The permittee (including the permittee’s lessee or contractor) shall coordinate all landscaping activities with the Department’s local maintenance patrol. Traffic control in the form of “Shoulder Work Ahead” or “Mowing Operations Ahead” signs is required. CDOT will provide and install such signs upon 48 hours notification to the appropriate maintenance patrol. The local maintenance patrol Lead Worker or Supervisor shall monitor the landscaping operation for compliance with these conditions, the permit, and any environmental restrictions and shall be empowered to order an immediate cessation of all landscaping activities and the right of way cleared should any infractions be noted.

While operating on State Highway rights of way, landscaping equipment shall display flashing yellow lights and slow-moving vehicle placards. All traffic rules shall be complied with in conjunction with the landscaping operation.

The permittee shall not allow any person onto the State Highway rights of way that is not contributing to the actual landscaping operation. The permittee is responsible to ensure no damage or disturbance occurs to any existing survey monuments that may be present on the right of way during landscaping.

Operations will be permitted only when soil is dry enough to prevent rutting or damage to the rights of way. The permittee shall cease operations any time that dust and debris is blowing onto the highway, thus impairing visibility and traction for motorists. Operations may resume once conditions improve.

The permit shall be suspended by the Region Traffic Section Permit Office any time fire bans are put into effect by the proper fire authority, State Office of Emergency Management, or the Governor. Such suspension shall occur automatically and without notice by the CDOT, and shall exist for the duration of the fire ban.

Permittee must maintain and cut the area around signs, improvements, and appurtenances as closely as possible. Upon completion of operations, the State Highway right of way shall be left in a clean and neat condition.

Unattended equipment must be parked as near as possible to the right of way fence line, and may not be left unattended within thirty (30) feet of the State Highway under any circumstances. All equipment shall be removed from the State Highway right of way at the end of each day landscaping activities are conducted. Equipment may not be stored overnight on the State Highway right of way.

- **Utilities:** The permittee is responsible to ensure no damage occurs to existing utility and other installations that may be present on the State Highway right of way during landscaping activities. CDOT reserves the right to issue utility permits allowing installation of utilities in the State Highway rights of way. The permittee shall not interfere with these installations which will take precedence over any landscaping activity. If any utility installation destroys a significant portion of the permitted landscaping, neither CDOT nor the utility company shall have any liability to the permittee for such damage.
- **Damage:** The permittee is responsible for reimbursing CDOT for the repair of any damage to fences, signs, delineators, guardrails, landscape plantings, or any other State Highway improvements resulting from the permittee's operations. The permittee, his successors, or assigns shall hold CDOT and FHWA, its officers, or employees harmless from all costs, liabilities, expenses, suits, judgments, claims or actions brought by any person against the CDOT and FHWA, its officers, or employees as a result of, or in connection with the permit, or the operation and performance hereunder by the permittee, his agents, or employees. All risk of injury or damage to permittee, property of permittee or others which may result from debris, foreign objects, or chemical contamination resulting from normal maintenance activities performed by the CDOT. The permittee is responsible for reimbursing CDOT for the repair and re-survey of any damage and disturbance to any survey monuments resulting from landscaping operations by the permittee.
- **Performance Bond:** As the landscaping will ultimately be a part CDOT's rights of way, the permittee is expected to maintain the landscaping in an acceptable manner. All landscape permittees will be required to either provide a performance bond in an amount that will cover future maintenance requirements if the permittee defaults, or escrow the same amount with an appropriate banking institution. If the permittee chooses the escrow option, any interest earned on the amount may be returned to the permittee.

- **CDOT Need for Right of Way:** The Department will not replace or relocate any landscaping placed within the right of way if CDOT has to have it removed for any reason including, but not limited to: safety, maintenance, and construction.

7.8.4 – Applying for and Issuance of a Landscaping Permit

The permit request shall be submitted to the appropriate CDOT Regional Traffic Section Office for initial review, necessary revisions, processing, and ultimately issuing the landscape permit. Each request shall contain the following information:

- The applicant's name, address, and telephone number.
- Legal description of the proposed landscaping area.
- Detailed description of the proposed landscaping to be performed.
- Detailed description of how and where the permittee proposes to access the right of way.
- Map of the proposed landscaping area to show location.
- Photo (if available) of the proposed landscaping area.
- CDOT Form 128 – Categorical Exclusion Determination.

An environmental clearance is required for all areas of the State Highway right of way for which an applicant is requesting a permit (CDOT Form 128 – Categorical Exclusion Determination). A permit may be granted excluding those sections of the requested State Highway right of way found to require environmental restrictions. In the process of clearing requested parcels, CDOT may delineate areas designated as “No Landscaping Allowed” to preclude work or driving equipment through areas that may be Environmentally Restricted Areas. These areas will be delineated and marked by CDOT before any landscaping activities can take place and all environmental restrictions shall be delineated on the permit.

The granting of the landscape permit must clearly state that it conveys no right, title, or interest to the permittee in the State Highway Rights of way.

Landscape designs, specific seed mixtures, type of plantings, etc. must be approved by the Region Landscape Architect, Environmental-Planning, Maintenance, Right-of-Way, and Traffic Sections and shall meet the following criteria:

- Xeriscape: Must follow the 7 Xeriscape Principles of Planting . Must be low water/native type plant material.
- Landscaping and plant layouts shall not be used for advertising.
- Shading & Safety: Evergreen tree placement shall not be such that would cause shading/icing on CDOT Roadways. Trees are allowed within the clear zone if behind existing guardrail. (ie can't put guardrail up to put trees closer to road). Landscaping shall not inhibit the driver's sight distance.
- Wildlife: No plant material that would entice wildlife or create a conflict between the wildlife and roadway.
- Irrigation Requirements should be considered as follows:
 - Water taps, meters and backflow devices shall not be on CDOT right of way.
 - The Local Agency shall provide water for irrigation purposes in the CDOT ROW landscaped features under this permit, at no cost to the State.
 - No irrigation over-spray on the roadways.
 - Power sources for the irrigation clocks, and the clocks themselves, shall be off the CDOT right of way.
 - Mainline shall have a shut off valve at the CDOT right of way line, on the highway side. Any irrigation line under an on/off ramp shall have a shut off valve on the upstream side of the ramp. All shut off valve locations shall be clearly and visible marked for CDOT.

- Mainlines shall be as far away from edge of pavement as possible. Irrigate from the middle of the right of way to the edge of pavement. (not from edge of pavement to middle of right of way).
- Applicants should consider “grit zone” in design considerations (ie 5-10’ zone next to roadway where no grasses or plant grow due to salt/sand/traffic).

7.8.5 – Approval Process

Prior to the Region approving any landscape permit they shall obtain approval to cross any access control lines from the Property Management Section. The request should include:

- Region Letter of Request certifying the request meets the requirements of this section with RTD concurrence.
- Legal description of the proposed landscaping area.
- Pertinent related correspondence, including the applicant’s contact information, and a detailed description of the proposed landscaping to be performed.
- Detailed description of how and where the permittee proposes to access the right of way.
- ROW map with the proposed landscaping area clearly noted and highlighted.
- Photo (if available) of the proposed landscaping area.
- Environmental Clearance (CDOT Form 128 - Categorical Exclusion Determination).

FWHA approval of changes and crossings of access control lines is required for all requests on Interstate and will be obtained through Property Management . All approvals other than access control of the Interstate as related to landscaping in highway right of way has already been obtained as part of the FHWA acceptance of this Section 8, of Chapter 7, of the CDOT Right of Way Manual.

7.8.6 – Permit Revocation

Any permit issued under these rules becomes null and void at any time the abutting land changes ownership if the permit is held by a private party. Any lessee or contractor of the Adjacent Landowner, performing work under a landscaping permit is subject to the all provisions outlined in this Section 8.

A permit may be revoked, or renewal of a permit may be denied for the following reasons:

- In the event CDOT determines that a permittee is no longer entitled to the permit under any of the requirements set forth in this Section 8.
- The permittee is no longer the Adjacent Landowner.
- The permittee has violated the terms or conditions of the permit.
- CDOT determines that the public health, safety or welfare is adversely affected by issuance or renewal of a permit.

Should a permit be revoked or not renewed for any reason, the permittee shall, at his/her own expense, remove the gate and restore the fence to its original condition. If the permittee does not accomplish this within 30 days, CDOT shall perform this task and bill the permittee for the cost to do so.