

Right of Way Manual

Chapter 7

Property Management

Policies, Procedures and Information

Colorado Department of Transportation

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SECTION 7.1 - GENERAL INFORMATION

7.1.1 - Acronyms Common to the Right of Way (ROW) Manual and CDOT

BLM	Bureau of Land Management (Department of Interior)
BPR	Bureau of Public Roads (Predecessor to Federal Highway Administration)
BuRec	United States Bureau of Reclamation (Department of Interior)
CAD	Computer Aided Drafting
CE	Categorical Exclusion
CDPHE	Colorado Department of Public Health and Environment
CDOT	Colorado Department of Transportation
CFR	Code of Federal Regulations
CHARN	Colorado High Accuracy Reference Network
CJI-Civ. 4th	Colorado Jury Instructions, Civil 4th
CPA	Certified Public Accountant
CPW	Colorado Division of Parks and Wildlife (Colorado Department of Natural Resources)
CRS	Colorado Revised Statutes
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EPS	Extended Purchasing System
ESA	Environmental Site Assessment
FEIN	Federal Employer Identification Number
FEMA	Federal Emergency Management Agency (U.S. Department of Homeland Security)
FHA	Federal Housing Administration (United States Department of Housing and Urban Development)
FHWA	Federal Highway Administration
FIR	Field Inspection Review
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (a federal law enacted in the wake of the savings and loan crisis of the 1980's)
FLPMA	Federal Land Policy and Management Act of 1976 (Public Law 94-579 94th Congress)
FLTC	Federal Land Transfer Coordinator
FMV	Fair Market Value
FONSI	Finding of No Significant Impact
FOR	Final Office Review
FS	Feasibility Study
GLO	General Land Office (US Dept of Interior, Bureau of Land Mgmt)
GPS	Global Positioning System
HB	House Bill
HBU	Highest and Best Use
HED	Highway Easement Deed
HLR	Housing of Last Resort
HUD	United States Office of Housing and Urban Development
IGA	Intergovernmental Agreement

ISA	Initial Site Assessment
LOC	Letter of Consent
LPA	Local Public Agency
LSCD	Land Survey Control Diagram
MAP-21	Moving Ahead for Progress in the 21st Century, P.L. 112-141
MESA	Modified Environmental Site Assessment
MIDP	Mortgage Interest Differential Payment
MOA	Memorandum of Agreement
MOO	Memorandum of Ownership
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NGS	National Geodetic Survey (National Oceanic and Atmospheric Administration - NOAA)
NHS	National Highway System
NRHP	National Register of Historic Places (National Parks Service, US Dept of the Interior)
NSRS	National Spatial Reference System (National Oceanic and Atmospheric Administration - NOAA)
PBS	Primary Base Series (USGS Mapping Program)
PCD	Project Control Diagram
PL	Public Law
PLS	Public Land Surveyor (Licensed in the State of Colorado by Colo Dept of Regulatory Agencies)
PS&E	Project Specifications and Estimates
PSI	Preliminary Site Investigation
QA	Quality Assurance
QAL	Qualified Appraisers List
QC	Quality Control
QRAL	Qualified Review Appraisers List
REPM	Regional Environmental Project Manager
RFP	Request for Proposal
RHP	Replacement Housing Payment
RI	Remedial Investigation
ROD	Record of Decision (US Environmental Protection Agency)
ROW	Right of Way
ROWPR	Right of Way Plan Review
RS	Revised Statute (Federal - first official codification of the Acts of Congress)
RTD	Regional Transportation Director
SPCC	Spill Prevention and Countermeasure Plans
SSN	Social Security Number
State Land Board	State Board of Land Commissioners (Department of Natural Resources)
STIP	Statewide Transportation Improvement Program (4-year transportation planning document required by FHWA)
STURRA	Surface Transportation and Uniform Relocation Assistance Act of 1987
SUP	Special Use Permit
TE	Transportation Enhancement (Moving Ahead for Progress in the 21st Century Act (MAP-21) replaced the TE Activities with the Transportation Alternatives Program (TAP))
TEA 21	Transportation Equity Act for the 21st Century (enacted June 9, 1998 as Public Law 105-178)

TMOSS	Terrain Modeling Survey System (InRoads Computer Software)
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended (42 USC 4601 <i>et seq.</i>)
USC	United States Code
USCIS	United States Citizenship and Immigration Services (Homeland Security)
USDOT	United States Department of Transportation
USFS	United States Forest Service
USGS	United States Geological Survey
USPAP	Uniform Standards of Professional Appraisal Practice

7.1.2 - 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, the portion shall be considered as abandoned in accordance with § 43-2-106, C.R.S.

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.

Business: The term *business* means any lawful activity, except a farm operation, that is conducted:

- i. As an entity licensed to conduct business by the Secretary of the State of Colorado, and which is currently held in *good standing* by the same;
- ii. As an entity who has filed State and Federal taxes as a business in the State of Colorado within the last calendar year;
- iii. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or any other personal property;
- iv. Primarily for the sale of services to the public;
- v. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- vi. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

Capital Improvements: Improvements including additions, extensions, 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.

Devolution: See Relinquishment

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 remnant 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. An approving resolution from the Transportation Commission must be issued before a property can be declared as Excess Fixed Asset Property.

Excess Project Property: All property acquired as highway right of way, which lies inside of the right of way lines of the original project, remnant 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 CDOT. 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 project eligible for Title 23 funding. An approving resolution from the Transportation Commission must be issued before a property can be declared as Excess Project Property.

Exchange of Property: The transferring of property, including improvements, water rights, land, or interests in land or water rights, by CDOT to another person in consideration for the transfer to CDOT 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 CDOT will receive adequate compensation.

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 solid waste and 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)/Phase II Environmental Investigation: 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.

Project Property: Property paid for by highway project funds.

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.)

Uneconomic Remnant: Whenever a part of a parcel of land is to be taken for state highway purposes and the remnant is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or 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 his option, retain the mineral or gravel interests therein, subject to the right to subsurface support retained by the department of transportation pursuant to section 43-1-209. The owner who retains said mineral or gravel interests shall not disturb the surface of the acquired parcel. The department of transportation may sell or lease the remnant 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.

7.1.3 - Purpose

The purpose of this chapter is to clarify the existing statutes, rules, policies, and procedures related to the Property Management Program. This chapter is also to establish uniform procedures for each of the Property Management activities and their implementation to ensure an effective program.

Federal regulations for the property management function are found in 23 CFR, Part 710 and 23 CFR, Part 620. These regulations prescribe Federal Highway Administration (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 and 23 CFR Part 620 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.

FHWA may participate in net costs incurred in leasing, rental, maintenance, disposal of improvements, protection, rodent control and clearance of real property

7.1.4 - Authority

§ 43-1-210 Acquisition and Disposition of Property
§ 43-2-106 Abandoned State Highways
§ 43-2-301 through § 43-2-304 Vacation Proceeding: Roads, Streets, Highways
§ 43-1-111 Chief Engineer to Acquire Property
§ 43-1-212 Departmental Rental Agreements
23 CFR 710.401 Real Property Management - General
23 CFR 710.403 Real Property Management - Management
23 CFR 710.405 Real Property Management - Air Rights on Interstate
23 CFR 710.407 Real Property Management - Leasing
23 CFR 710.409 Real Property Management - Disposals
23 CFR 620.201 through 23 CFR 620.203 Relinquishment of Highway Facilities
23 CFR 713 Subpart C Right of Way – The Property Management Function
Transportation Commission Resolution 271

7.1.5 - CDOT Delegation

Section 43-1-210, C.R.S. gives Colorado Department of Transportation (CDOT), through the Chief Engineer, the authority to lease or dispose of remnant and excess 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 be approved directly by the Property Management Program Manager:

1. Leases of project related excess/remnant and future right of way parcels;
2. License agreements involving real estate or access to the State Highway system;
3. Agreements to sell real estate to the successful bidder on projects which have been previously approved by the Transportation Commission or its designee;
4. Agreements to hire auctioneers for the disposal of real estate;
5. Contract for the sale of improvements acquired on right of way projects sold at auction or by sealed bid;
6. Bill of sale for salvage property on right of way projects;
7. Employee Housing Leases;
8. Documents asserting CDOT's ownership of property.

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 CDOT'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.

7.1.6 - Approval

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 CFR, 1.23, which requires all right of way be devoted exclusively to public highway purposes except those approved by the Administrator. 23 CFR, 710.405(b) requires the State obtain prior FHWA approval for permanent occupancy or use of Interstate Right of Way.

This includes such activities as leasing, maintenance and disposal of property rights, including access control. FHWA 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, CDOT and FHWA will agree on the scope of property-related oversight and approval actions for which FHWA will be responsible. The most recent Stewardship Agreement indicates for which non-Interstate Federal-aid requests require submission of materials for review and approval. If the request is on the Interstate System, FHWA must review all required documents and sign a concurrence letter. All requests for FHWA concurrence must be routed through the Property Management Program.

The following issues must be addressed prior to granting approval for the proposed disposal or usage of the right of way:

1. 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;
2. The integrity and safety of the highway facility constructed elsewhere on the right of way is ensured;
3. There is no decrease in the access control to the highway facility constructed elsewhere on the right of way;
4. Where a proposed use requires changes to the existing facility, such changes shall be provided without cost to FHWA;
5. 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.

7.1.7 - Organization

Property Management functions are completed by both the Property Management Section and Region staff. A general breakdown of responsibilities is listed below:

1. The Property Management Section is responsible for maintaining a complete inventory of all excess, remnant, office, and maintenance site parcels including improvements.
 - A. The Property Management Program Manager manages this Section with the assistance of existing staff and coordination with the appropriate Region personnel.
 - B. The Property Management staff manages all properties turned over by the Regions to the Section for rental and/or disposal.
2. The Property Management Section is responsible for the clearing and/or demolition of project property improvements. Prior to demolition it is the responsibility of the Regions

to ensure safety of all sites.

- A. Includes asbestos inspection and abatement, lead-based paint (LBP) inspection and lead abatement, air monitoring/final clearances, underground storage tank removal, and cleanup of petroleum contamination or hazardous materials.
 - B. Also prepares SPCC plans and ensures compliance with EPA and CDPHE Regulations on all CDOT properties.
3. 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 Property Management Section or the Hazardous Materials Unit.
4. The Headquarters ROW Section will add all new ROW Projects to CDOT's GIS real property data. All Uneconomic Remnant's and Excess Parcel's that have been identified as part of the ROW Project shall be labeled identifiable in the CDOT GIS real property data.
- A. Also after each construction project is completed, to determine if any change in design has left CDOT with excess or remnant right of way.
 - B. This inventory is provided annually to CDOT's Risk Management Unit, for their annual report required by §24-30-1303.5, C.R.S.

SECTION 7.2 - REAL ESTATE

Section 7.2 is intended to set forth protocol for property management activities on land owned by CDOT. Some areas of CDOT ROW are not owned by CDOT, but instead by the United States Forest Service (USFS) or the Bureau of Land Management (BLM). In cases where CDOT does not own the land the ROW generally exists via the rights granted in a Highway Easement Deed. CDOT shall coordinate with the USFS or BLM in accordance with the current USFS/BLM/FHWA/CDOT Memorandum of Understanding (MOU) for requests on public lands within CDOT right of way.

7.2.1 - General Property Rental and Lease Information

It is the policy of CDOT 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/remnant 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 prepare a lease for a specific piece of property. In order to maintain segregation of duties and avoid the potential for fraud, the person who negotiates and writes a lease cannot be the same person to enter the terms of the lease into SAP. In addition, the property inventory will be incorporated in the lease where applicable.

All of the following items will be required to be submitted to the Property Management Section prior to the lease of any property.

• Lease with original signatures
• Signed 128
• Exhibit Depicting Lease Parcel
• Request from Region Staff (Email or letter)
• Certificate of Insurance
• Market Rent Analysis (Include County Value for Cell Tower Leases)
• Payment for First Term
• FHWA Concurrence Letter if on Interstate

The Property Management Section shall maintain in a central file (physical or electronic) copies of all of the proceeding documents.

The Property Management Section's involvement with the tenant occupied property includes:

1. Contacting tenants regarding past-due rent;
2. Coordinating repairs with Region Maintenance staff that a landlord would typically make under the lease agreement when it is desirable to continue renting the property;
3. Working with the Attorney General's Office when it becomes necessary to evict a tenant;

4. Responsible for advertising and showing property to prospective tenants when re-leasing the property, or coordinating with the Region if it is geographically closer;
5. Executing new leases when the existing one expires, with the Region's concurrence;
6. Conducting a study to determine the fair market rental rates for leases. The Region conducts a study and recommends a fair market rental rate for leases for Property Management if they choose to do so.

When a lease is canceled and the occupant vacates, the Region staff will make a physical inspection of the property to determine if the property is in satisfactory condition. The Region Right of Way Manager may authorize the return of any security deposit to the tenant. If the property is not in an acceptable condition, CDOT 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.

Property Management will assign a lease number in SAP via transaction code RECN for contract payment and tracking purposes.

All lease agreements shall direct the lessee 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.

The Property Management Section will handle all delinquent notices or any other action taken for collection of unpaid rents.

7.2.2 - Closed Project Land and Building Leases

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 for non-highway purposes. The following conditions must be met for compliance with 23 CFR 710:

1. FHWA has approved temporary right of way limits within the overall right of way;
2. 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, a completed Environmental Categorical Exclusion Form (CDOT Form #128);
3. 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 for approval as FHWA's delegee. FHWA will be consulted as an interested party during the approval process;

4. 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;
5. The integrity and safety of the highway facility constructed elsewhere on the right of way is ensured;
6. There is no decrease in the access control to the highway facility constructed elsewhere on the right of way;
7. Where a proposed use requires changes to an existing facility, such changes shall be provided without cost to FHWA;
8. 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;
9. 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 CDOT 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. At the end of the term of each lease, Property Management 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;
10. 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 and appropriate notification is provided;
11. The lease shall normally have a 30-day cancellation clause; however, in cases where it is obvious CDOT 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 CDOT, 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;
12. The Region will request the lease and lease rate from the Property Management Section, if the Region elects not to do this function;
13. 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 to the property inventory;

14. On projects, which have previously been constructed, and a final voucher processed, all monies received shall be coded to GL Account 7640000021 and credited to the appropriate customer and contract in SAP;
15. Upon receipt of notice that an occupant is vacating a property, the Region determines whether or not the improvements should be demolished for construction, or in the case of a remnant property, if the property can be sold;

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

16. When CDOT requires the use of the property, the Property Management Section shall coordinate with 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);
17. 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 CDOT;
18. A warrant for the remaining amount of the security deposit, payable to the tenant, will be ordered and sent to the tenant with a letter listing the reasons any funds were withheld;
19. An account of all rental payments received on each leased parcel will be kept by maintained in SAP.

7.2.3 - Leasing Property from Others for Department Purposes

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

1. The originating Region or Division, in conjunction with the Property Management Section, must prepare the justification for the lease and a written request for approval by the Executive Director.
2. The Property Management Section will, upon request by the Region, assist in finding suitable property and negotiating the rental rate, terms and conditions, etc. for the lease.
3. Once agreement has been reached between the Lessor and CDOT, two (2) originals are prepared, along with any required exhibits. The Lessor is asked to sign each original lease, and the leases are forwarded to the Property Management Section for routing to secure the remaining signatures.
4. Upon execution, the funds are encumbered and paid for by the Division or Region and the original leases are distributed to each appropriate party.

7.2.4 - Active Project Land and Building Leases

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 CDOT ROW Manual

project. Also, relocation benefits may have an impact on whether to lease a property.

Under no circumstances will a contractor or a consultant be allowed to occupy improved Advance Acquisition, Excess or Remnant parcels without obtaining a lease and paying a Fair Market Lease Rate. Contractors may use vacant excess property for staging sites only when designated in the bid plans.

CDOT will waive the first 30 days rental fee to relocatees (from time of closing), after which a lease agreement 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.

1. A standard lease document will be prepared by the Region indicating the amount of rent, security deposit and date of first payment.
2. After the tenant has signed three original leases, the original leases, with the first month's rent, will be submitted to the Property Management Section so it can be executed, assigned a SAP lease number and added to the SAP inventory.
3. The Region will collect all rents and has full responsibility for project rental properties involving relocatees.
4. If the property is rented to the original owner/tenant until relocation is completed:
 - A. The Region will retain responsibility including completion of 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;
 - B. The Region Right of Way Manager will determine what should be deducted from the relocation payments;
 - C. 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.
5. If the property is rented to someone other than the original owner:
 - A. The Region will conduct a final inspection of the property when it is vacated by the original owner;
 - B. Property Management will administer a lease agreement with the new tenant in the same manner as described in Section 7.2.2.
6. All lease revenues from active project leases shall be credited to the project budget.

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.

7.2.5 - Oil and Gas Leases

Oil and gas leases are handled as a function of the Property Management Section. §43-1-208, C.R.S, authorizes CDOT to acquire fee simple title to property for highway improvement projects. SB 08-41 amended §43-1-208, C.R.S., in 2008 with the following language, “Notwithstanding any other provision of this section, the commission may not acquire through condemnation any interest in oil, natural gas, or other mineral resources beneath land acquired as authorized by this section except to the extent required for subsurface support.” Subsequent to the passage of SB 08-41 CDOT has not acquired mineral rights on any properties unless the selling property owner specifically requests CDOT to acquire them. Before executing Mineral Rights Leases the Lessor must submit vesting deeds showing CDOT’s clear fee simple ownership of the parcel to be leased.

When CDOT 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 mineral rights must be in writing and include a legal description and a copy of the vesting deed that shows CDOT’s fee simple ownership of the parcel to be leased. Reference to the CDOT highway project and parcel number is required.

CDOT will consider all lease requests, but the potential lease cannot interfere with CDOT’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 form may be considered with approval by the Attorney General’s Office. Lease fees and procedures are explained to the prospective lessee upon inquiry. Upon receipt of written requests to lease CDOT’s oil/gas rights, the following action is taken:

1. A copy of the vesting deed that shows CDOT’s fee simple ownership of the parcel to be leased is checked to determine if CDOT owns or is currently leasing the area. CDOT does not warrant title. Lessee is cautioned to do their own search and be reasonably certain that CDOT does indeed have the mineral rights;
2. Once appropriate documentation is submitted, the Property Management Section assigns a SAP Lease number. Two (2) originals of the lease are prepared and sent to the prospective lessee. The lessee, upon examination and approval, is required to return both signed originals of the lease, a \$400 per acre lease consideration fee and the insurance certificate required by the lease;
3. Once both signed originals are returned by the lessee, the Property Management Section prepares a cover letter and they are forwarded to the Chief Engineer or designee for approval and signature;
4. Once the lease is executed, one signed original is forwarded to the lessee, the second signed original goes into the Property Management Section file. A scanned, fully executed lease will be sent to the Region ROW/Property Management Office and the. All payments are forwarded to Accounting. All other actions pertaining to oil and gas leases, including oil and gas lease Division Orders, are processed through the Property Management Section.

Division Orders

1. An Oil or Gas Division Order is a division of interest among all the owners. The Lessee submits these Division Orders to CDOT with a cover letter from the oil and gas company including associated instructions on executing the Division Order. Division Orders are not executed by CDOT; instead CDOT 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 Oil and Gas Company the Division Order has been sent by. Each well on the Division Order shall be added to the company's spreadsheet in the Master Division Order List Workbook so all royalties can be credited to the correct company;
 - 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 signed by the Property Management Real Estate Specialist;
 - D. Upon execution, the Division Order Supplement Letter is attached to the Division Order and returned to the requesting Company, scanned as a PDF and saved to the appropriate lease file.

7.2.6 - Telecommunications Leases

The Colorado Legislature has enacted the Public-Private Initiatives § 43-1-1201, C.R.S, et seq., which provides that CDOT may enter into non-exclusive agreements with telecommunications providers whereby a telecommunication provider may use public rights-of-way in exchange for cash or a cash equivalent. See § 43-1-1204(5), C.R.S.

1. Wireless Communication Installations within the right of way
 - A. CDOT has the authority to lease property for cell towers on any State Highway Right of Way, Fixed Asset Property with approval of the Chief Engineer or designee and on Interstate Right of Way with the approval of FHWA and the Chief Engineer or designee. CDOT has developed a standardized cell tower site lease (a copy of the current cell tower lease can be located on the Property Management web page) the rate structure for cell tower site leases are based on the county in which the site is to be constructed. The counties are divided into four categories:
 - i. Urban

Denver, Adams, Arapahoe, Boulder, Clear Creek, Douglas, Gilpin and Jefferson
 - ii. Suburban

Larimer, Weld, Elbert, El Paso and Lincoln

iii. Rural Suburban

Garfield, Eagle, Summit, Kit Carson, Pueblo, Huerfano, Las Animas, Mesa, Morgan, Sedgwick and Washington

iv. Rural

Moffat, Routt, Jackson, Grand, Rio Blanco, Delta, Pitkin, Lake, Park, Chaffee, Fremont, Montrose, Ouray, San Miguel, Dolores, La Plata, Montezuma, Archuleta, San Juan, Hinsdale, Gunnison, Saguache, Mineral, Rio Grande, Conejos, Costilla, Alamosa, Custer, Teller, Crowley, Kiowa, Otero, Brent, Powers, Baca, Cheyenne and Yuma

B. The rates for the first year's cell tower site rental for each geographic category are as follows:

- i. Urban - \$14,000
- ii. Suburban – \$12,000
- iii. Rural Suburban – \$8,000
- iv. Rural – \$6,500

C. All cell tower site leases shall have an initial term of five years. The leases are automatically renewable for three additional five-year terms for a maximum total of 20 years. The rental rate shall increase by 3.5% compounded annually after the first year.

D. Requests for cell tower leases shall follow the process described below:

- i. The request shall be routed to the Region Right of Way Manager. The prospective Lessee shall submit site legal descriptions, drawings and preliminary construction details to the Region Utility Engineer;
- ii. The Right of Way Manager shall seek approval/comments regarding the request from the Region Right of Way, Environmental, Planning, Design, Traffic, Safety, Hydraulics and Access specialty units;
- iii. The prospective Lessee shall seek approval from all local governmental agencies with jurisdiction over the property. The prospective Lessee shall submit all local governmental approvals for the site to the Region ROW Manager;
- iv. The Right of Way Manager shall request a Categorical Exclusion Determination Form (CDOT Form #128) for the proposed lease site from the Region Environmental Manager;

- v. The Region Right of Way Manager shall submit a Property the completed Form 128 and Region Unit Supervisor Approvals along with a request letter for the lease signed by the RTD to the Property Management Section;
 - vi. The Property Management Section will draft a lease and coordinate the signature of the lease with the prospective Lessee;
 - vii. If the proposed lease site is within Interstate Right of Way, the Property Management Section will seek concurrence for the proposed lease from FHWA;
 - viii. The Property Management Section will route the lease for signature by CDOT's Chief Engineer or designee;
 - ix. The Property Management Section will forward one original of the executed lease to the Lessee and one will be filed in the appropriate Property Management Section lease file. A scanned copy of the lease will be sent to the Region ROW Office;
 - x. Concurrent with the lease process the Lessee shall submit an application for a CDOT Region Utility Permit;
 - xi. Once the lease is executed by CDOT, the Region can issue a Special Use Permit if all of their requirements have been fulfilled. The signed Region Utility Permit will act as the official notice to proceed.
- E. As technology and fiscal climates evolve, it may be necessary to consult with the CDOT ITS and Utilities departments on any wireless communication installation requests that deviate from the process defined above.
2. Linear Fiber and Data Installations within the Right of Way
- A. All requests for linear installations of fiber or data lines within CDOT's right of way require consultation with the CDOT Utilities and ITS Departments and CDOT's current Policy and Procedural Directives for guidance regarding the required compensation. The Utilities Department is responsible for collecting any appropriate administrative fees. The Property Management Section will handle all necessary leasing requirements.
3. Perpendicular Fiber and Data Right of Way Installation Crossings
- A. Installations of fiber and data lines that cross CDOT right of way in a perpendicular manner can be permitted via a Special Use Permit by the Region Permits Department. Any perpendicular installations that require surface or aerial crossings of an access control line will also require a temporary access control line crossing license for details on how to request a temporary access control line crossing license through the Property Management Section.

7.2.7 - ROW Use Agreements Rental and Leases

Where CDOT has acquired sufficient right, title, and interest in the right of way to permit the use of property for non-highway purposes, and where such property 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 property 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. 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, a completed Environmental Categorical Exclusion Form (CDOT Form #128);
3. Upon review of the package, the request and the Property Management 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 for approval as FHWA's delegee. FHWA will be consulted as an interested party during the approval process. See the FHWA ROW Use Agreements Guidance Document for additional information;
4. Income from leases will be coded to GL account 7640000021, and credited to the appropriate customer and contract in SAP;
5. Whenever a lease is renewed, or there is a new lease request, current fair market value will be established for the lease. Necessary precautions must be taken to safeguard the highway use and provide safe use of the ROW

Property 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 property would be considered unavailable. Under no conditions shall property be used for the manufacture or storage of flammable, explosive, hazardous material, or for any other occupation deemed by CDOT or FHWA to be a hazard to highway or non-highway users.

7.2.8 - Disposal of Land and Improvements

Real property owned by CDOT is to be reviewed to determine CDOT'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 CDOT's need. This review should include input from all of the different functions of the Region including Traffic, Maintenance, Access, Design, Planning, Safety, ROW and Environmental to make sure there is no immediate or future need for the property.

In accordance with 23 CFR 710.409 real property interests determined to be excess to transportation needs may be sold or conveyed to a public entity or to a private party in accordance with §710.403(d). Federal, State, and local agencies shall be afforded the

opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the SDOT shall notify the appropriate resource agencies of its intentions to dispose of the real property interests. The notifications can be accomplished by placing the appropriate agencies on the States' disposal notification listing. Real property interests may be retained by the SDOT to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility. Where the transfer of properties to other agencies at less than fair market value for continued public use is clearly justified as in the public interest and approved by the FHWA, the deed shall provide for reversion of the property for failure to continue public ownership and use. Where property is sold at fair market value no reversion clause is required. Disposal actions described in 23 CFR 710.403(d)(1) for less than fair market value require a public interest determination and FHWA approval, consistent with that section.

All of the following items will be required to be submitted to the Property Management Section prior to the final disposal of any property.

<ul style="list-style-type: none"> • Legal Description
<ul style="list-style-type: none"> • Signed 128
<ul style="list-style-type: none"> • Exhibit Depicting Disposal Parcel
<ul style="list-style-type: none"> • Documented Approval from Region Unit Supervisors
<ul style="list-style-type: none"> • Request from RTD (Email or Letter)
<ul style="list-style-type: none"> • FHWA Concurrence Letter if on Interstate
<ul style="list-style-type: none"> • Appraisal if Over \$25,000. Market Analysis under \$25,000 (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
<ul style="list-style-type: none"> • Review Appraisal (Only if over \$25,000) (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
<ul style="list-style-type: none"> • Fair Market Value Determination
<ul style="list-style-type: none"> • Approved TC Resolution (to be obtained by the Property Management Section for Excess Parcels)

The Property Management Section shall maintain in a central file (hard or electronic) copies of all of the proceeding documents.

When statutes require the sale to the abutting owner, CDOT shall have the property appraised to determine the fair market value. If CDOT is selling the property to the general public, the property will be sold by auction or sealed bid. In any case, an appraisal or a value finding must be used to set the minimum amount acceptable (the fair market value range). If all bids fall below the FMV range, the FMV for the property can be determined to be the amount of the highest bid. In this scenario the Property Management Section will consult with the Region to determine if the property should be sold to the highest bidder or if CDOT should hold on to the property and try to sell it at another time for a higher price. 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 or divided and sold to each abutting owner at FMV. Contracts with real estate marketing firms may be considered

based on the value of the property and the potential revenue which may be generated from the disposal.

All property disposals shall be negotiated jointly by Property Management and Region ROW Staff. If an individual/entity attempting to acquire a parcel of property from CDOT desires to dispute the disposal process or FMV determination they/it may request a review of the facts by CDOT Management. The first review will be conducted by the Region ROW Manager. If the ROW Manager does not negotiate a successful sale, the review request can be elevated to the Region Transportation Director. The final request for review can be submitted to CDOT's Chief Engineer. If a successful sale is not negotiated during this process, the parcel will be kept on CDOT's inventory to be sold at a later time.

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 CDOT through the Property Management Program Manager for all other National Highway System facilities. FHWA has a strong interest in all disposals and leases on the National Highway System and may be consulted prior to approval by CDOT. A completed Categorical Exclusion Determination Form (CDOT Form #128) must accompany all requests for disposal 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 survey, appraisal, 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.

For a step-by-step flow chart depiction of the disposal process please see Exhibit B1 – Disposals, Exhibit B2 – Abandonments and Exhibit B3 – Relinquishments.

If the subject parcel is not a legally defined excess or remnant parcel, the requesting party shall 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, CDOT will pay for value findings and appraisals to avoid weakening CDOT'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 they are entitled to receive a copy upon request. Value findings for excess properties under the \$25,000 threshold are allowed by Statute, but are not appraisals and will not be distributed outside CDOT. Any parcel estimated to have a value of \$25,000 or more shall be appraised by a Department approved certified general contract fee appraiser per § 43-1-210(5), C.R.S. and, at CDOT's discretion, by a CDOT staff appraiser. All appraisals will be reviewed by a CDOT staff certified general review appraiser, or a fee review appraiser from the CDOT approved list of fee review appraisers, 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 or their delegate 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 purchased if applicable.

1. Preparing Parcels for Disposal

- A. State statutes provide different procedures CDOT must utilize to dispose of property it owns depending upon the appraised value and 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.
- B. If CDOT 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.
- C. 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 CDOT 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, CDOT 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 CDOT shall dispose of such property or interest by means of a sale or exchange for not less than its fair market value.
- D. For any property or interest therein subject to disposition that CDOT determines has an approximate value of less than \$25,000, CDOT shall dispose of such property or interest by means of a sale or exchange at not less than its fair market value, except that CDOT 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 CDOT Staff Certified General 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.
- E. If CDOT 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, CDOT shall vacate such property or interest and title to such property or interest in accordance with the provisions of Title 43, Article 2, Part 3, Vacation Proceedings.
- F. Diligent effort means that the property in question is actively marketed and offered for the entire five-year period.

2. Property Auction

- A. An Auctioneer can be contracted to sell properties on an as needed basis. The Property Management Section will use the contract auctioneer if available and will obtain all necessary approvals before the auction is held. In the notice advertising the auction, CDOT must indicate that 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 along with the proper coding of the proceeds.
- B. If the improvements require that work be done by anyone other than a Department employee or contractor prior to offering for auction or conducting a closing, then insurance meeting the current statutory requirements must be provided prior to allowing any individual to perform work on the property.

3. Sealed Bids

- A. The Property Management Section 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.
- B. The Property Management Section will be responsible for the advertisement and receipt of sealed bids on land and improvements. Property Management staff will conduct a public bid opening, notice will be given to the successful bidder, and deposits, if applicable, will be returned to the unsuccessful bidders.
 - i. 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 public opening, with bonding and insurance requirements listed. The Property Management Section will open all bids. The opening place for the bids will generally be at the Property Management Offices.
- C. 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 (see Section 7.2.16).

4. Categories of Property

A. Uneconomic Remnant Parcels

i. Identification of Uneconomic Remnant (“RE”) Parcels

- a. Whenever a part of a parcel of land is to be taken for state highway purposes and the remnant is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or 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 his option, retain the mineral or gravel interests therein, subject to the right to subsurface support retained by the department of transportation pursuant to section 43-1-209. The owner who retains said mineral or gravel interests shall not disturb the surface of the acquired parcel. The department of transportation may sell or lease the remnant of said parcel or may exchange the same for other property needed for state highway purposes.

- b. Region Right of Way will identify obvious Remnant parcels on the plans during initial plan preparation. The “RE” designation indicates that the remnant 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 remnant after take is an uneconomic remnant is the decision of the Region ROW Manager who may consult with a review appraiser as deemed appropriate. Following are examples of obvious “R” parcels:
 - i. Landlocked tracts;
 - ii. Small, triangulated or irregularly shaped tracts with limited utility in the “after” condition.

ii. Identification of “RE” Parcels during Review Process

- a. During the review process, consideration will be given to the addition or deletion of “RE” parcels. The review appraiser will recommend the addition or deletion of “RE” 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 Survey/Plans Supervisor in the Region Right of Way/Design unit. The Headquarters Right of Way Program Manager 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 “RE” parcel as a remnant after take and the damage thereto. If the remnant 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.

B. Excess Land

- i. Parcels which are acquired for highway purposes, which may or may not be constructed upon, that lie inside the right of way lines of the original project.
- ii. Procedure for identification of Excess (“EX”) Parcels
 - a. Parcels of land which were acquired for roadway purposes may be recommended as excess by the Regional Transportation Director. If the property is on Interstate Right of Way, FHWA approval of the land disposal is required. The Property Management Section prepares a Resolution for Approval by the Transportation Commission.

- b. The number of the excess parcel shall be the same as the number of the parcel originally purchased followed by the letter “EX”. 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 “EX”. 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 “RE” parcels, these parcels shall also be described separately.

5. Improvements

- A. 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 that is potentially regulated by the Colorado Real Estate Commission.
- B. 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.
- C. CDOT 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.
- D. If the improvements located within the right of way are not to be used by CDOT, 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 remnant owned by CDOT shall not be offered to the owner unless the improvements are to be removed from the remnant property (See Chapter 4 of the Right of Way Manual for further direction/clarification).
- E. 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 CDOT does not take possession of the improvement upon closing, then the Region should withhold payment for the improvement until such time as CDOT gets possession and determines the improvement is in acceptable condition. Should the improvement not be in acceptable condition, CDOT 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 CDOT at the time CDOT 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 CDOT takes possession.

7.2.9 - Disposal or Lease at less than Fair Market Value

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. Less than fair market value disposals require that a reversionary clause be placed on the deed whereby the property shall revert to CDOT if the approved purpose for which the real property was sold originally ceases.

1. CDOT clearly shows that an exception is in the public interest for:
 - A. Social, environmental, or economic purposes;
 - B. Non-proprietary governmental use;
 - C. Or 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. Use for transportation projects eligible for assistance under Title 23 of the United States Code 710.403(d)(5).

FHWA may approve the exception if the above criteria are met upon written submission on Interstate Right of Way: FHWA has delegated approval for less than FMV disposals on non-interstate right of way and property purchased without the use of federal funds to the Property Management Program Manager if the disposal meets with the above criteria.

7.2.10 - Abandonment

The Region Transportation Director shall obtain from the local officials within the jurisdictions affected a written commitment that the county, city or town will accept the abandoned route onto its system for public highway, street or road purposes. If the proposed abandonment will result from a relocation caused by construction, the local commitment should be made prior to construction. If funds are transferred to the county, city, or town for future maintenance or construction work, the local officials must agree to use those funds for the purpose intended without further abandonment or vacation of the roadway. If a further abandonment and closure of the street or road by the county, city, or town would occur, the property would revert to the Department of Transportation for sale in accordance with Section 43-2- 106(2) C.R.S. and any unused funds that were transferred to the county, city, or town would be required to be returned to the Department.

The Property Management Section shall prepare the abandonment resolution for presentation by the Region to the Transportation Commission. The abandonment resolution shall clearly state which portion of the route shall be accepted by the city, town for street, or county for county road purposes, which portion will be retained for

transportation purposes (if applicable), and which portion will be sold or exchanged as excess land (if applicable). Parcels to be sold shall be revised and shown on the appropriate Right of Way Plan in accordance with the Right of Way Manual, Chapter 2.

All of the following items will be required to be submitted to the Property Management Section prior to the final abandonment of any property.

• Legal Description
• Signed 128
• Exhibit Depicting Disposal Parcel
• Documented Approval from Region Unit Supervisors
• Request from RTD (Email or Letter)
• FHWA Concurrence Letter if on Interstate
• Appraisal if Over \$25,000. Market Analysis under \$25,000 (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
• Review Appraisal (Only if over \$25,000) (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
• Fair Market Value Determination
• Approved TC Resolution (to be obtained by the Property Management Section for Excess Parcels)

The Property Management Section shall maintain in a central file (hard or electronic) copies of all of the proceeding documents.

If only a small portion of an existing city or town street, or county road is to be turned over to the city, town or county as part of a project, the parcel shall be identified as a relinquishment, pursuant to 23 CFR 620.201 through 23 CFR 620.203, on the right of way plans. FHWA approval will be sought as part of the plan approval process and a resolution of relinquishment for the Transportation Commission shall be prepared by Property Management at the completion of the project. Land acquired by the Department for new city or town streets, or county roads will be taken directly in the name of the city or town, or county when the deeds are prepared.

The abandoned or relinquished portion shall become a county highway, upon the adoption of a resolution to that effect by the board of county commissioners, or a city street, upon the adoption of an ordinance, or similar action to that effect by the governing body of any city, town, or county within ninety days after the official notification of such abandonment or relinquishment by the Transportation Commission.

7.2.11 - Exchange of Property

"Exchange" means the transferring of property, including improvements, water rights, land, or interests in land or water rights, by CDOT to another person in consideration for the transfer to CDOT 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 CDOT will receive adequate compensation.

All of the following items will be required to be submitted to the Property Management Section prior to the final exchange of any property.

• Legal Description
• Signed 128
• Exhibit Depicting Disposal Parcel
• Documented Approval from Region Unit Supervisors
• Request from RTD (Email or Letter)
• FHWA Concurrence Letter if on Interstate
• Appraisal if Over \$25,000. Market Analysis under \$25,000 (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
• Review Appraisal (Only if over \$25,000) (can be completed by Region Staff, contracted by Region, or contracted by Property Management)
• Fair Market Value Determination
• Approved TC Resolution (to be obtained by the Property Management Section for Excess Parcels)

The Property Management Section shall maintain in a central file (hard or electronic) copies of all of the proceeding documents

For a step by step flow chart depiction of the disposal process please see Exhibit B4 – Exchange Process Flow Charts.

1. Exchanges on a Closed Project

A. Remnant Parcels

- i. The Property Management Section will secure the approval to exchange the property from the Chief Engineer, which was previously delegated by the Commission through Resolution TC-271. Such exchanges will generally involve the disposal of property acquired by CDOT pursuant to §43-1-210(1), C.R.S., or property which is of use only to one abutting owner.
- ii. The remnant 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.
- iii. The disposal of remnant property via an exchange must still be approved by FHWA, if on the interstate system, or by the Property Management Program Manager, as the FHWA’s delegee on all other State Highways.

- iv. Previously acquired remnant properties may be exchanged without Transportation Commission approval for other property needed for State Highway purposes.
- v. All property exchanges shall be traded on a dollar-for-dollar basis, based upon the before exchange value as set by CDOT's appraisal. If CDOT's and the land owner's appraisals indicate a wide range of values for one or more parcels involved in an exchange, CDOT may initiate a second appraisal.

B. Excess Parcels

- i. The Property Management Section shall secure approval to exchange the property from the Chief Engineer, which was previously delegated by the Commission through Resolution TC-271. Such exchanges will generally involve the disposal of property acquired by CDOT pursuant to §43-1-210(1), C.R.S. or property which is of use only to one abutting owner.
- ii. 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.
- iii. If the excess property is not within the active project limits, the proposed exchange must be approved by the Transportation Commission.
- iv. The disposal of excess property via an exchange must still be approved by FHWA, if on the interstate system, or by the Property Management Program Manager, as the FHWA's delegee on all other State Highways.
- vi. All property exchanges shall be traded on a dollar-for-dollar basis, based upon the before exchange value as set by CDOT's appraisal. If CDOT's and the land owner's appraisals indicate a wide range of values for one or more parcels involved in an exchange, CDOT may initiate a second appraisal.

2. Exchanges on an Active Project

B. Exchanges on an active project shall be handled in the same manner as a closed project; however, the Region will work through the HQ Right of Way Program to process all submittals. Transportation Commission approval is not required for exchanges on an active project.

7.2.12 - Disposal of Access Control

All of the following items will be required to be submitted to the Property Management Section prior to the final disposal of access control or processing access control line crossing license.

• License with original signatures (2)
• Signed 128 (Signed by FHWA if on Interstate)
• Exhibit Depicting Crossing

<ul style="list-style-type: none"> • Request from Region Staff (Email or letter)
<ul style="list-style-type: none"> • FHWA Concurrence Letter if on Interstate

The Property Management Section shall maintain in a central file (hard or electronic) copies of all of the proceeding documents

1. Existing Access Control Changes

In most instances access control lines have been acquired by CDOT exercising its police power rights to protect the health, safety and welfare of the traveling public. CDOT does not compensate the underlying fee owner when police power is used to establish an access control line. This section, 7.2.12, is only intended to set protocol for access modifications of access control lines acquired with police power. In rare instances CDOT may have paid fair market value for the acquisition of an access control line. When disposition of an access control line that was acquired by paying fair market value is required, CDOT shall follow the procedures set forth in Section 7.2.8 of this manual.

Changes in deeded access are purely discretionary by CDOT 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 disposition of State and federal property rights and real property. 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 CDOT 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. Region judgment and discussions with the Property Management Section based on the specific issue will provide more accurate guidance. Access change types include: Closing, relocating, new opening or widening of an 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 or Right of Way 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 tied to the original CDOT right of way and the project survey stationing (unless otherwise directed by the Region).
- C. 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 environmental federal requirements, 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.
- D. CDOT is not required to obtain compensation for the disposition of an access control line that was acquired by exercising police power.
- E. 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.
- F. If the requested change(s) is supported by the Region a cover letter including any necessary details and a positive recommendation regarding the request shall be sent to the Property Management Program Manager. 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 Interstate Right of Way including any access, utilities, interchanges, overpasses, and underpasses then reviews and specific approvals are required from the FHWA.
- G. After approvals are received, final deeds are completed and then exchanged between CDOT and the property owner(s). The Region shall record the deed(s) 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.

- H. For vehicular access, after the deed process is completed, the property owner submits a State Highway Access Permit Application (CDOT Form #137) to the Region in order to obtain an Access Permit. An Access Permit should include, under special conditions, the deed change process completed for this access. 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 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 any time. The Property Management Section and FHWA approvals are still necessary.

7.2.13 - Conveyance of Property or Property Rights

All conveyances of property from CDOT 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 is 2829 West Howard Place, Denver, Colorado 80204. 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” (CDOT 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, the 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 (2829 West Howard Place, Denver, Colorado 80204) should be in the upper right-hand corner of the deed so that it can be returned to the Property Management office for distribution. Scanned copies of the recorded deed shall be saved in the parcel disposal file and linked to the electronic Quitclaim Deed Book that is managed by the Property Management Section.

The Region responsible for selling the property is ultimately responsible for assuring that the original quit claim deed is forwarded to the Purchaser after it is recorded.

7.2.14 - 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 remnant parcel. The procedure to acquire this type of property is explained in Chapter 4 of the Right of Way Manual. 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 Project Appraiser on a Certified Inventory of Real and Personal Property Form (CDOT Form #433). The personal property inventory is completed by the Region at a later date.
- B. The inventory is provided to the property owner, Region Project Manager, 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 the Property Management Section. 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, office buildings, etc., and a project for the acquisition has been programmed and included in the Asset Management Budget, TC Resolution authorizing funding or funded by a Region:

- A. The Region, the Property Management Section, or both will make the initial decision as to what land will be acquired (Property Management shall be consulted on costs and feasibility of various alternatives prior to making any offers to purchase). 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 CDOT Staff Certified General 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. After approval, the Region or the Property Management Section will execute an agreement to purchase the property, contingent upon the grantor having negotiable title.
- C. The Region or the Property Management Section will have a title insurance company prepare a title commitment on the property.
- D. 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 or the Property Management Section will prepare the necessary deed(s), release(s), and any other documents necessary for transfer of the property, assign a property number and order the warrant.
- E. Information on specific building inventories located on General Ledger property can be found in Section 7.3.2.

3. 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. The Property Management Section will obtain FHWA approval when federal funds were 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 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.

4. Donations

When land and/or improvements are donated to CDOT for use as a maintenance site, the Region must submit a letter, donation form, deed or bill of sale to the Property Management Section for inclusion in the property inventory. The Property Management Section will furnish the Region and Asset Management with the new SAP property number. The property inventory must include the FMV for the property at the time of donation.

5. Encroachments

CDOT's 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 CDOT 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 entity.

7.2.15 - Property Inventory

The Property Management Section maintains an inventory record in SAP of all property owned or leased by CDOT except right of way. The Headquarters ROW Section shall update the CDOT GIS real property data with all Excess and Uneconomic Remnants acquired on individual ROW Acquisition Projects.

1. Types of Property

Although all properties are carried on the SAP inventory, the purpose of dividing property into categories is that general ledger property must also be listed in the asset records of CDOT. 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

Property paid for by CDOT funds not programmed for highway projects. Examples of this type of property are maintenance sites, office buildings, 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 highway project funds. There should be a distinction between right of way lines and maintenance site property lines.

B. Project Property

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 remnant parcels, excess parcels, joint use property, future construction property and rest areas inside or outside of the right of way.

2. 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 CDOT: The Board acknowledges CDOT's determination that CDOT is not required to monument remnant tracts or ownerships outside of CDOT'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 site plan (or revision) shall be performed by the Region Right of Way Section under the supervision of the Region Surveyor, 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 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 the SAP property number. Uneconomic Remnant and Excess parcels not being leased will be maintained on the CDOT GIS real property data.

C. Inventory of all Improved Property

When the Region closes on a parcel of Excess or Uneconomic Remnant land with improvements, the Region will immediately forward a copy of the Certified Inventory of Real and Personal Property (CDOT Form #433) with a cover memo to the Property Management Section. If the Region retains the excess or remnant parcel with improvements for Region purposes, the cover memo shall explain how the parcel will be used, the length of time to be used and the contact person regarding the use.

7.2.16 - Coding of 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 CDOT 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. Income from the sale or rental of property will be coded to the following GL accounts and revenue from all leases will be credited to the appropriate customer and contract in SAP. All non-active project lease revenue shall not be coded directly to a particular project.

After a closing is completed for a disposal property, SAP Cash Transmittals (Exhibit D) that include the appropriate GL account, the internal order code for each Region and the specific project the revenue should be credited to, along with the funds from the closing shall be sent to Accounting. Accounting will deposit the money, enter the revenue in SAP according to the information provided on the cash transmittal, sign the cash transmittal and send a copy of the cash transmittal back to Property Management. Property Management will then send a copy of the cash transmittal to the Business Manager assigned to assist the Property Management Section, the appropriate Region Business Manager, the Business Manager assigned to assist the Property Management Section and Region Business Manager will complete the transfer of funds to the appropriate Title 23 eligible project.

The GL accounts for Lease/Disposal revenue and internal order codes for each Region are as follows:

GL Accounts

<u>GL Account #</u>	<u>TYPE OF REVENUE</u>	<u>GL NAME</u>
7530400060	Sale of Fixed Asset Property Only	GAIN/LOSS SALE OF PROPERTY FIXED ASSET
7610100000	Oil and Gas Royalties; Coal, Mineral and Water Revenue	OIL & GAS ROYALTY
7640000021	All rent from ROW Use Agreements Leases (except Wireless Sites);	Rent from Project Property Right of Way RENT
7640000022	All Right of Way rent from Fiber Optics	Right of Way LEASE FIBER OPTICS
7640000024	Rent from State Patrol - CSP	CSP RENT
7640000071	Rent from Fixed Assets – Land Only (i.e. Rent of Parking Space to St. Patrol)	RENT FROM LAND
7640000070	Rent from Fixed Assets – Buildings (Mtc Sites, Employee Housing, & Offices)	RENT FROM BUILDINGS
7640000072	Rent From ROW Use Agreements Leases (Wireless Sites)	RENT FROM AIRSPACE, WIRELESS
7650010073	Sale of Fixed Assets – Buildings (Mtc Sites & Offices)	GAIN/LOSS SALE OF FIXED ASSETS
7650210073	Sale of Project Property	GAIN/LOSS SALE OF REAL PROPERTY
7650500000	Sale of Equipment	GAIN/LOSS SALE OF EQUIPMENT
7660000059	Donated Assets/Materials	DONATED ASSETS/MATERIALS

REGION	<u>Internal Order Codes*</u>	CODE
1		200201
2		200202
3		200203
4		200204
5		200205
Property Management		200200

* 90% of all revenue from property disposal will be credited to a Title 23 eligible project in the Region the parcel was sold. 10% of the revenue from property disposals will be credited to Property Management for the Property Disposal Project.

The customer and contract history for leases will continue to be tracked in SAP via transaction codes FBL5N and RECN. For parcels that are to be traded, the net amount received from the exchange of excess or remnant property will be credited to the appropriate GL 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.

It is the responsibility of CDOT to recover FMV for all property sold or traded. CDOT must select the method of sale which will best achieve this aim and still be within State laws. It is the policy of CDOT 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.

7.2.17 - Local Jurisdiction Facilities to Be Located Within CDOT ROW

The Department has a number of bike/pedestrian trails and other public facilities within its right of way on the State Highway System. The Local Jurisdiction is required to contact the Region Permits Office and complete a Special Use Permit (SUP) application prior to construction of these facilities. The SUP will ensure compliance with CDOT design and construction standards.

As part of the SUP application process the Region may require the development of a License Agreement with the local jurisdiction. The license agreement will include requirements for the local jurisdiction to maintain the facility, provide adequate liability insurance, recognition by the Local Jurisdiction that the facility is not a public park or other 4(f) facility that may encumber CDOT right of Way in the future. The License Agreement will also include a revocation clause in the event the ROW is needed for future highway purposes.

Regardless of whether a license and/or a SUP is deemed as the appropriate approval document, all applications submitted for local jurisdictional facilities located within CDOT ROW shall be evaluated and approved at the Region level once the applications have been deemed to meet the following criteria:

1. Environmental Requirements - The Local Jurisdiction shall comply with the Region's environmental clearance requirements as part of the SUP Application process. If the facility is to be located within interstate right of way, the CDOT Property Management Section will provide the application information to FHWA for review and environmental clearance prior to issuance of the SUP. Environmental clearance requirements may include detailed reports and surveys

of threatened or endangered species, archaeology and paleontology, wetlands, and contaminated soils. These studies may take a considerable amount of time to resolve. CDOT will also need documentation that assures that the facility will not become a 4(f) designated facility. CDOT encourages a pre-application process and scoping of the proposed project in advance of proposed construction so that adequate time can be allocated to environmental study requirements.

2. Right of Way - The Region Right of Way section shall approve the project prior to the issuance of a SUP. If the request is within Interstate right of way, approval is also required from FHWA prior to issuance of a SUP (approval obtained by Property Management Section). To address right of way requirements, the application shall include location maps, plan and profile sheets for the proposed facility, including 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. The application shall also include information relating to all access easements, and utility easements, access control lines, and highway right of way along the highway corridor. If the request requires the crossing of access control lines this may require additional information regarding the purpose and duration of the crossing. The Property Management Section, Region Right of Way Manager, and Region Traffic Engineer shall be consulted regarding an access line crossing early on in the process.
3. Staff Bridge Requirements - All proposed modifications to any existing structures or new structures shall conform to the CDOT Staff Bridge Detailing Manual and be approved by CDOT Staff Bridge. Any project that might impact the structural integrity of any bridge pier, foundation, abutment, appurtenance, or any portion of the bridge or approach work shall be reviewed and approved by CDOT Staff Bridge. The plans shall include necessary information for review and approval by Staff Bridge and FHWA prior to issuance of the SUP (approval obtained by Property Management Section). Design reviews and approvals from Staff Bridge happen according to work load and may take a considerable amount of time to receive comments or approval of the plans.
4. Traffic Requirements - The information submitted shall show all existing and proposed traffic control devices and the geometric design of the trail.
5. Design Submittal - The plans shall be signed and sealed by a Colorado Licensed Professional Engineer. The Design shall comply with all CDOT and AASHTO requirements, and conform to the CDOT design guides, and Project Development Manual. The Design shall comply with ADA requirements, be tied to state highway mileposts, show all structural details as applicable, all drainage structures, grading, and stormwater impacts.
6. Maintenance – The Local Jurisdiction shall be responsible for all maintenance of the facility. The License agreement developed between the Local Jurisdiction and CDOT will outline these requirements on a case by case basis. Maintenance shall include any structural maintenance, drainage, weed/trash removal, snow removal, and lawn mowing.
7. Protection Requirements - Because various funding sources for trail projects require Section 6(f)(3) protection requirements to the detriment of CDOT's interests, the Region will consider the source of funding for the proposed trail project prior to reviewing the

project and/or issuing a SUP. Projects that invoke Section 6(f)(3) protection requirements shall not be allowed within CDOT Right of Way.

8. Revocation – The Special Use Permit and License Agreement shall include a revocation clause in the event that CDOT needs the right of way for future highway widening or modification, or any other CDOT purpose. The expense of relocating and reconstructing the Local Jurisdiction facility will be the responsibility of the Local Jurisdiction.

If the Region chooses not to issue a separate license agreement the following language shall be included as a requirement of the SUP:

1. The Permittee recognizes that the State must retain the superior right to use the State's Right of Way for highway purposes, and the Permittee desires to agree to relinquish the use of such right of way without any cost or liability to the State, pursuant to the terms of this Permit.
2. The Permittee recognizes the improvements constructed under this Permit shall not be considered a significant publicly owned park, recreation area or refuge, and therefore, Section 4(f) of the U.S. Transportation Act does not apply.
3. The Permittee shall be solely responsible for any and all damage to the State's roadway, structures and/or associated facilities caused by the construction, operation, or maintenance of the Trail Project within the State's Right of Way, except for damage caused by the State or its agents. Any such damage shall be corrected in accordance with the State's standards at the Permittee's sole expense.
4. The Permittee shall be solely responsible and liable for any and all claims, damages, liability and court awards including costs, expenses and attorney fees, which arise as a result of the acts of its employees or agents or their acts of omission, if any, in constructing, operating, or maintenance of the Trail Project within the State's Right of Way. Nothing in this Permit shall be construed as a waiver by the State or the Permittee of the provisions and protections of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as now enacted or hereafter amended.
5. The Permittee will maintain and operate the improvements constructed under this Permit, at its own cost and expense during their useful life, in a manner satisfactory to the State, and will make ample provision for such maintenance each year. Additionally, the Permittee shall be responsible for mowing weeds and grasses in those areas, between the Trail and the edge of the State's Right of Way where such mowing needs to be performed by walking lawn mower, rather than a tractor-type lawn mower. The parties shall meet to determine the location of these areas. Such maintenance and operations shall be in accordance with all applicable statutes and ordinances, and regulations promulgated thereunder, which define the Permittee's obligation to maintain such improvements. The State may make periodic inspections of the Trail Project to verify that such improvements are being adequately maintained with respect to protection of the State's Right of Way. In the event that the Trail Project is not maintained in an appropriate manner, as determined by the State, the State reserves the right to notify the Permittee, and if such maintenance remains deficient for a period of thirty (30) days after such written notice, to perform maintenance actions deemed necessary by the State and to be reimbursed by the Permittee for the costs of such maintenance actions. Additionally, if at any time the Trail Project is determined to be obsolete, unnecessary, or

a threat to the safety of the traveling public, the parties hereto shall immediately negotiate the most appropriate and mutually desirable course for removing or covering the trail. The Permittee shall be responsible for the cost of any such removal or coverage.

6. Because various funding sources for trail projects require Section 6(f)(3) protection requirements to the detriment of CDOT's interests, the Region will consider the source of funding for the proposed trail project prior to reviewing the project and/or issuing a SUP. Projects that invoke Section 6(f)(3) protection requirements shall not be allowed within CDOT Right of Way.

Once the Region's Permitting office has received the above information, it will be forwarded and reviewed by the appropriate Units within CDOT. Once the application complies with CDOT requirements, including a License Agreement as necessary, CDOT will issue a Special Use Permit for NHS and non-NHS highways. If the request is acceptable to the Region and is on Interstate ROW, the Region will request FHWA approval through Property Management prior to issuing a SUP. If the project includes crossing any access control lines these will need to be addressed prior to the issuance of a Special Use Permit which could delay the process until the Chief Engineer and/or FHWA has agreed to the access line crossing.

7.2.18 - Annexation of Department Owned Property

It is the policy of the Department of Transportation to request and assist in the annexations of Department owned real property including highway right of way, maintenance facilities, and other real property when the annexation is needed by the Department to obtain municipal services or to clear up jurisdictional questions related to municipal boundaries. Jurisdictional questions occasionally arise when a municipal boundary runs down the center of a highway, thus dividing responsibility for that highway between two or more municipalities.

Further, it is generally the policy of the Department not to execute annexation petitions prepared by municipalities or private parties. The Department may, at its discretion, execute an annexation petition of Department owned property, sought by entities other than the Department, under the following circumstances:

1. To facilitate a city in their solution of a jurisdictional question where a city limit does not incorporate the entire width of the highway right of way. In these instances, the Department may initiate a petition to have a part of the roadway annexed to the city.
2. When all impacted governmental jurisdictions and property owners indicate support of the annexation, via resolution or signed statement, respectively, the Department may execute an annexation petition.

Nothing in this policy shall be construed to prevent the annexation of Department owned real property to a municipality by the means of an annexation election. The Department shall neither support nor oppose an annexation election regarding its property.

All annexations of Department property shall be approved by the Chief Engineer.

7.2.19 - Landscaping

1. General

Landscaping, as used in this Chapter, means to alter the appearance of a piece of land by minor grading, planting trees, shrubs, flowers, grasses, or installing an irrigation system to support plant life. It does not mean changing the contour of the land. It also does not mean placing any other items in the right of way other than those noted above. 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.

- A. Permission to use CDOT right of way for landscaping can be obtained either by a permit or a license. A license may be obtained by land owners who desire to landscape small parcels of CDOT right of way adjacent to their property where a physical barrier such as a noise wall separates the requested right of way parcel from the travel surface of the CDOT facility. Allowing landowners to landscape such parcels alleviates CDOT of the burden of maintaining these small parcels without compromising the integrity and safety of the highway. A permit shall be issued for all other requests.
- B. Regardless of the type of request, if a CDOT right of way fence separates the requestor's property from the right of way, either a CDOT approved gate must be installed in the fence, or a fence agreement allowing for an alternative barrier must be executed and recorded at the County Clerk and Records Office. Also, if the landscaping activity requires crossing a deeded access control line (A-line), a license to allow for the crossing must be executed. Fencing and gate provisions and licenses to allow for crossing of deeded A-lines can be incorporated into the permission document given to the landowner to allow for the landscaping activity. All landscaping activities in interstate right of way, or that cross access control lines for interstate facilities must be approved by FHWA.
- C. Landscaping work within municipal boundaries (pursuant to § 43-2-135, C.R.S.) on certain public lands, or on private property, may require separate approval of the appropriate jurisdictional agency or property owner.

2. Licenses

CDOT owns certain segments of right of way that are located behind a physical barrier that separate such right of way from the travel surface of the transportation facility. Regions shall request authority for A-line crossings from the Property Management Program Manager. Regions may enter into agreements with numerous landowners owning property located beyond long stretches of physical barrier. A current landscaping license form is located on the Property Management web page. Applications for such approvals must include the following:

- A. From applicant
 - i. The applicant's name, address, telephone number and email address;

- ii. Description of the proposed landscaping to be performed (Sketch would be sufficient);
 - iii. Description of how and where the Permittee proposes to access the right of way.
- B. CDOT will provide
- i. Map and Plans of the proposed landscaping area to show location;
 - ii. Photo (if available) of the proposed landscaping area;
 - iii. CDOT Form #128 – Categorical Exclusion Determination.

Region Traffic Engineers or their designees are responsible for landscaping licenses. A current landscaping license form is located on the Property Management web page. All modifications to the landscaping license shall be approved by the Property Management Program Manager.

3. Eligibility

Each request must be reviewed with the safety of the motoring public as the overriding consideration.

- A. To be eligible to obtain a permit to landscape within the right of way, the applicant must meet one of the following criteria:
- i. The applicant is the adjacent land owner to the right of way the applicant wishes to landscape;
 - ii. The applicant is a local public agency whose jurisdiction encompasses the right of way the applicant wishes to landscape;
 - iii. 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.
- B. Areas not eligible for landscaping
- i. Areas containing environmental restrictions such as wetlands or habitat for threatened or endangered species as identified during environmental studies prior to approval of the initial permit for the permitted area;
 - ii. Areas under construction, or planned to be under construction;
 - iii. Any median that separates traffic lanes on the Interstate Highway, Freeway or Expressway.
- C. Areas that may be eligible on a case-by-case basis as determined by the Region Traffic Sections

- i. Any median that separates traffic lanes on the right of way other than Interstate Highway, Freeway or Expressway.
 - ii. Rest areas or other locations with the approval of FHWA.
4. Responsibilities and Requirements of the Permittee

A. Access

Access to the permitted 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.

- i. Access to the permitted landscaped area for all Interstate and controlled access Highways is limited to the use of gates provided in the 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 CDOT. CDOT shall provide a lock for any gate installed for access to any right of way abutting Interstate. A lock on all other gates providing right of way access shall be at the discretion of CDOT. The Permittee shall coordinate access through the gate with 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.
- ii. Under no circumstances may the Permittee enter or leave the permitted area using the main traveled-way of the right of way. 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 right of way line. The Permittee shall be responsible for keeping all livestock off of the CDOT's right of way at all times. Parking, loading and/or off-loading of equipment on the paved shoulders of the right of way is prohibited. Permittees are not allowed to access the State Highway under any circumstances from the landscaped area. Modification to the prohibitions set forth herein may be allowed in extraordinary circumstances as approved by the Region Traffic Engineer, FHWA concurrence is also required when the requests is on the Interstate.
- iii. 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 A- line, a license must be executed. A license allowing crossing of the A- line shall be included as an attachment to the landscaping permit. A request package to cross A- line must be prepared and submitted to the Property Management Section for approval of the crossing. Refer to the Approval Process as set forth within Section 7.8.6 below.

B. Utilities

The Permittee is responsible to ensure no damage occurs to existing utility and other installations that may be present on the right of way during landscaping activities. CDOT reserves the right to issue utility permits allowing installation of utilities in the State Highway Right of Way. The Permittee shall not interfere with these installations which will take precedence over any landscaping activity. If any utility installation destroys portions of the permitted landscaping CDOT shall have no liability to the Permittee for such damages.

C. Damage

The Permittee is responsible for reimbursing CDOT for the repair of any damage to fences, signs, delineators, guardrails, landscape plantings, or any other right of way improvements resulting from the Permittee's operations. The Permittee, his/her successors, or assignees 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 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/her agents, or employees. The Permittee, his/her successors, or assignees shall hold CDOT and FHWA, its officers, or employees harmless from 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 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.

D. CDOT Need for Right of Way

Any permits or licenses in existence at the time construction begins, are deemed null and void or suspended at that time. Permits or licenses may be reinstated for the remaining period of the original permit upon completion of the construction.

CDOT 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, or construction.

- i. *Note: The remaining provisions of this section are not applicable to landscaping licenses for segments of right of way behind physical barriers, as set forth in Section 7.8.2; all operations shall be done in accordance with the terms, conditions, requirements, and guidance set forth in the permit itself.*

E. Insurance

Evidence of insurance must be part of original submission package to the Region. A copy of the permit and proof of liability insurance in the amounts required 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) for both the Permittee and any and all contractors the Permittee may use for landscaping activities.

- i. Insurance requirements shall be as specified within Subsection 107.15 of the CDOT Standard Specification for Road and Bridge Construction 2010 or most recent edition. FHWA shall be listed as additional insured for Interstate permits.

F. 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 notification to the Permittee.

- i. The Permittee (including the Permittee's lessee or contractor) shall coordinate all landscaping activities with CDOT's local maintenance patrol. Permittee must provide or arrange for traffic control in accordance with MUTCD which shall include but not be limited to "Shoulder Work Ahead" or "Mowing Operations Ahead" signs. The Region's permit office and 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.
- ii. While operating on right 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.
- iii. The Permittee shall not allow any person onto the right 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.
- iv. Operations will be permitted only when soil is dry enough to prevent rutting or damage to the right of way. The Permittee shall cease operations any time that dust and debris is blowing onto the highway, thus impairing visibility or traction for motorists. Operations may resume once conditions improve.
- v. Permittee must maintain and cut the area around signs, improvements, and appurtenances as closely as possible. Upon completion of operations, the right of way shall be left in a clean and neat condition.
- vi. 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 right of way under any circumstances. All equipment shall be removed from the right of way at the end of each day landscaping activities are conducted. Equipment may not be stored overnight on the right of way.
- vii. CDOT reserves the right to determine the quality and adequacy of the work by the Permittee under this agreement. The criteria shall be the State's current Level of Service Standard for this type of work. CDOT will notify the Permittee in writing of any deficiency in the work. Upon notice of any deficiency in the work,

either: a) by CDOT; or b) by its own observation; or c) by any other means, the Permittee shall take action as soon as possible, but not later than 30 working days after the mailing date of such notice to correct the deficiency and to protect the safety of the traveling public. In the event the Permittee, for any reason, does not or cannot correct the deficiency within 30 working days, or demonstrate that action satisfactory to cure such default has been commenced and will be completed in a timely manner, or otherwise demonstrated that no deficiency exists, CDOT reserves the right to correct the deficiency and to bill the Permittee for such work.

G. Performance Bond

As the landscaping will ultimately be a part CDOT's right 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 any other acceptable surety instrument at the discretion of the CDOT Regional Traffic Engineer.

5. Applying for Issuance of a Landscaping License

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:

A. From applicant

- i. The applicant's name, address, telephone number and email address;
- ii. Description of the proposed landscaping to be performed (Sketch would be sufficient);
- iii. Description of how and where the Permittee proposes to access the right of way;
- iv. Detailed irrigation plans (if applicable).

B. CDOT will provide

- i. Map and Plans of the proposed landscaping area to show location;
- ii. Photo (if available) of the proposed landscaping area;
- iii. Categorical Exclusion Determination Form (CDOT Form #128) (completed NEPA documentation may be used to expedite completion of this requirement).

An environmental clearance is required for all areas of the right of way for which an applicant is requesting a permit Categorical Exclusion Determination Form (CDOT Form #128). A permit may be granted excluding those sections of the requested 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. 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 right of way.

6. Landscaping Requirements

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:

A. Xeriscape

Must follow the 7 Xeriscape Principles of Planting, and must be low water/native type plant material.

B. Landscaping and Plant Layouts

Landscaping and plant layouts shall not be used for advertising.

C. Shading and 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 (i.e. can't put guardrail up to put trees closer to road). Landscaping shall not inhibit the driver's sight distance.

D. Wildlife

No plant material that would entice wildlife or create a conflict between the wildlife and roadway is allowed.

E. Irrigation

Requirements should be considered as follows:

- i. Water taps, meters and backflow devices shall not be on CDOT right of way.
- ii. The Local Agency shall provide water for irrigation purposes in the CDOT right of way landscaped features under this permit, at no cost to the State.
- iii. No irrigation over-spray on the roadways.
- iv. Power sources for the irrigation clocks, and the clocks themselves, shall be off the CDOT right of way.
- v. 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 visibly marked for CDOT.

- vi. Mainlines shall be as far away from edge of pavement as possible and 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).
- vii. Applicants should consider “grit zone” in design considerations (i.e. 5’-10’ zone next to roadway where no grasses or plant grow due to salt/sand/traffic).

7. Approval Process to Cross Access Control Line (Permits Only)

FHWA approval of changes and crossings of access control lines is required for all requests on Interstate and will be obtained through the Property Management Section. 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. FHWA approval of changes and crossings of A- lines is considered a Federal Action that requires Environmental Clearance.

The provisions of this section contained hereinafter are not applicable to landscaping licenses for segments of right of way behind physical barriers, as set forth in Section 7.8.2; prior to the Region approving any landscape permit they shall obtain approval to cross any A-lines from the Property Management Section. The request shall include:

- A. Legal description of the proposed landscaping area;
- B. Pertinent related correspondence, including the applicant’s contact information, and a detailed description of the proposed landscaping to be performed;
- C. Detailed description of how and where the Permittee proposes to access the right of way;
- D. Right of way map with the proposed landscaping area clearly noted and highlighted;
- E. Photo (if available) of the proposed landscaping area;
- F. Environmental Clearance (CDOT Form #128 - Categorical Exclusion Determination);
- G. Certificate of Insurance evidencing statutory limits and listing CDOT and FHWA (where applicable) as Additional Insured.

8. 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 all provisions outlined in this Section 8.

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

- A. 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;
- B. The Permittee is no longer the Adjacent Landowner;
- C. The Permittee has violated the terms or conditions of the permit;
- D. 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.

7.2.20 - Employee Housing Leases

The Property Management Section maintains the physical and SAP records for all employee housing leases. Each Region or Maintenance Section should designate one individual to ensure 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 in a timely manner. All START and STOP Payroll Forms must be submitted prior to the 15th day of the month that the payroll action is required. The rental fee for the first month must be collected by the Region in the form of check or money order from the employee and submitted to the Property Management Section with the lease. The deduction will start the following month via the payroll action.

1. Lease Requirements

The standard employee lease shall 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 CDOT. All forms, agreements, and the first month's rent, and utilities if required, shall be sent directly to the Property Management Section for final processing and execution and the Start and Stop Payroll deductions can be processed in a timely manner.

A. Employee Lease Agreement

- i. For employees of CDOT
 - a. Two originals of the Lease Agreement must be signed by the employee and the Maintenance Superintendent or delegee. The Property Management Program Manager has been delegated authority to sign the leases for the Chief Engineer.
- ii. For employees of other agencies
 - a. Three originals of the Lease Agreement must be signed by the employee and the Maintenance Superintendent or delegee. The Property Management

Program Manager has been delegated authority to sign the leases for the Chief Engineer.

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

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

C. Utility Disclosure Form (State Owned Housing)

- i. 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 shall 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)

- i. This document must be reviewed with the employee and signed by the employee. This form is to be submitted with the lease package.

E. Start Payroll Deduction

- i. The form must be signed by the employee and the rent deduction amount, where the employee is sharing a meter with CDOT, 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. The first month's rent is always paid in advance by check or money order.

F. Stop Payroll Deduction

- i. 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

- i. This form must be signed by the employee and the Maintenance Superintendent or delegee, 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 Maintenance Superintendent or delegee and then returned in the package.

2. Utilities

If employee housing mobile home pads currently share CDOT'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

Security Deposits will only be required when an employee is renting a dwelling (not a mobile home pad) that is CDOT owned. The security deposit will be \$250, 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 by the Region during inspections 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 GL Account 7640000070 as rent from fixed assets – land & buildings (Mtc. Sites, Employee Housing, & Offices).

7.2.21 - Records Management

23 CFR 710.201(f) requires Property Management to keep adequate files of all property management activity. Property Management shall keep a comprehensive file for all completed leases, disposal, exchanges access modifications and any other license or agreement. Each file shall contain a checklist (Exhibit A) of specific documents that is required for each type of property management action. Exhibit A must be initialed by Property Management Staff certifying that all documents are complete and accounted for. Exhibit A must be complete prior to requesting the execution of any property management documents by delegated CDOT Management.

7.2.22 - Property Asset Record

CDOT 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 or 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. Asset Management, 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 for

verification.

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 in building size
- B. Increase the use, value, or quality of the building
- C. Increase the building's life

While the cost is not the only determining factor, a capital improvement is generally a large cost, over \$50,000. Expenses to maintain the building in good operating condition and/or replace building components 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 and per Section 7.3.4, whether an expenditure is an expense or a capital improvement.

2. Change in Asset Records

The following SAP Accounts will be used when charging to Department owned property:

- A. 4611000010 - Administrative maintenance sites and equipment depots, rest areas, scenic overlooks, and buildings
- B. 4611000020 – Building improvements
- C. 4612000010 - Administrative sites and equipment depots (land, including gravel pits).
- D. The expenses recorded in the above accounts are capitalized. Capitalized expenses are recorded by project as an Asset Under Construction (AUC) through the monthly SAP project settlement process and the expense is eliminated through a clearing account. At the end of the fiscal year, the Property Management Section notifies Asset Accounting of projects that have been completed. For completed projects, the cumulative AUC is moved to the permanent property asset in the SAP Asset Module.
- E. A physical inspection and rating of all building assets is completed annually by Property Management staff in accordance with §24-30-1303.5. Upon receipt of the completed inventory lists, Asset Accounting will update the Building Assets in the SAP Asset Module as necessary.
- F. 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 CDOT's 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 Property Management code sheet.

3. Change in Insurance

- A. Currently, CDOT has a separate insurance policy for general ledger property so all assets must be updated as to value every year by the Region. The Property Management Section must keep the Risk Management Unit aware of any changes. In order to do this, the Property Management Section shall furnish the Risk Management Unit a monthly list of changes in the asset records.

SECTION 7.3 - DEMOLITION, ENVIRONMENTAL AND HAZARDOUS WASTE

7.3.1 - 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, or the length of time between the acquisition of the improvements or the beginning of construction of the project.

1. Demolition by Contractor

- A. 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.
 - i. Specific information is required from the Region Right of Way Acquisition Agent for Property Management to initiate a demolition and asbestos and hazardous waste inspection
- B. The Property Management Checklist for Asbestos and Demolition of Property (Exhibit C) must be completed and sent to the Property Management Section. This form can be found on Property Management's web site under Hazardous Waste Management and Demolition. As indicated on the form the Region must attach all requested documentation in order for the request to be processed. Confirmation of the receipt and requests for any additional information will be made to the Region within 48 hours.
 - i. The Property Management Section will contact the Region Construction Engineer or Region Acquisition Agent to obtain information relevant to the specific project. Information likely to be requested would include, but not be limited to, the following:
 - a. Should concrete foundations/footers be removed or used as backfill;
 - b. The depth of removal required on well casings;
 - c. Are septic systems present and if so whether septic tanks should be abandoned in place or removed;
 - d. Should trees and bushes either be removed (including/or not including the stump) or preserved;
 - e. Traffic control requirements;
 - f. Construction schedule and coordination of the demolition work;
 - g. Project specific standards and specifications that should be included with the bid documents;
 - h. Utility relocations and agreements with local agencies or jurisdictions;
 - i. Coordinate special handling and disposal of materials on the project that may reduce time and cost;

- j. Special instructions.

C. Assembled Specifications Package and Posting

- i. Based on information obtained from the Region Acquisition Agent and Project Construction Engineer, establish an appropriate scope-of-work based on the specific demolition work/site clearing required. The Property Management Section will work with the Procurement Office to obtain bids and a Purchase Order for the demolition work.
- ii. Property Management will also handle asbestos inspections and abatements. This process takes an estimated six weeks. Hence, these requests should be made at the same time as the demolition request. If the buildings being demolished are vacant at the time the request is submitted for demolition and site clearing, inspections and abatements will be accomplished prior to the bidding/contracting portion of the demolition process.

D. Changes to the Original Request for Site Clearing

- i. The Demolition Contractors that clear sites under the direction of the Property Management Section 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 Property Management Section will initiate the change order. A proposal will be solicited from the demolition contractor, then the demolition contractor and the Property Management Project Manager will negotiate price and terms for the additional work to be completed. The change order will be based upon these negotiated items and issued upon execution.

E. Conditional Site Clearing and Demolition

- i. The 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.
- ii. 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:
 - a. 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 CDOT does not yet have the right of occupancy).
 - b. 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."

- c. Restrictions and "no-work" zones will affect the cost of the demolition project and must be taken at State expense (i.e. non-participating).
- d. 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 confirmation of relocation of all displaced occupant(s) must be provided in the request.

2. Removal by Highway Construction Contractor

When this method is to be used, the Region will inform its design personnel of the 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 hazardous materials clearance (or removal) is not being handled under a separate contract by the Property Management Section, the demolition specifications contained in the construction contract must include the removal and proper disposal of all special/universal wastes as defined in RCRA, recovery, removal and disposal of all refrigerants from air conditioning/refrigeration appliances, in accordance with AQCC Regulation No. 15 (for information on CFC requirements call 303-692-3177) and the disposal of luminous exit signs (containing radioactive material) per 6 CCR 1007-1, subpart 3.6.4.3 (for more information call 303-692-3320).

- B. Whether the asbestos abatement is handled by the Property Management Section, or the construction contractor, the Demolition Notification must be signed by the Asbestos Inspector following 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 and submitting the form to the Colorado Department of Public Health and Environment (CDPHE) at least 10 business days prior to proceeding with demolition. Demolition Notifications signed by the inspector may certify that the only Asbestos Containing Materials (ACM) left in the building is non-regulated materials and that OSHA's health and safety guidelines for asbestos are to be followed during demolition.
- C. These materials can be demolished and disposed of with demolition debris, and in those cases where the certification indicates that non-regulated asbestos containing materials (such as VAT and/or tar-impregnated roofing materials) 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. Additional care is also required to ensure these materials DO NOT end up in the soil during demolition.

3. Time of Disposal

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

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

7.3.2 - Rodent Control

In all Federal-aid projects the control of rodents and other pests is required by either the Region or the Property Management Section. 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.

CDOT 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.

7.3.3 - Safety

CDOT 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. It is the Responsibility of the Regions to ensure safety of all sites.

7.3.4 - Hazardous Waste and Storage Tanks

Any property suspected of having storage tanks, hazardous materials or hazardous waste, must be cleared by the Region environmental section or the Property Management 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 contamination. If Region review of older parcels reveals that an ISA or MESA was not conducted previously, the Region or Property Management Section 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 or the Property Management Section should follow up with a Site Investigation (SI) to determine the nature and extent of the contamination, if any. If contamination has been determined to be present in the site soils and/or groundwater, a request should be made to the Property Management Section, in advance of advertising for the construction project to allow for cleanup of the property in advance of construction. An early request for these services is imperative to allow Property Management time

to clean up affected media and/or provide for preparation of a Materials Management Plan (MMP) for the project and minimize handling of hazardous materials during the construction phase of the project.

In addition to evaluating CDOT owned and controlled property, the Property Management Section evaluates spills or “midnight-dumping” found on maintenance facilities, highway right of way, or vacant excess or remnant 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.

7.3.5 - Hazardous Materials

An asbestos inspection will be conducted on all buildings undergoing renovation or demolition and the inspector will advise CDOT through a written report of what ACM are present and need to be abated prior demolition or renovation of the building. The asbestos inspector must take destructive samples of all suspect materials, send them to an approved laboratory and obtain the results prior to completing the report. The inspection report will state what ACM was found and the requirements for abatement. If abatement is required, an abatement contractor will be hired by Property Management 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 required to be abated prior to demolition have been properly abated. 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 or a quantity equal to one 55-gallon drum 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 the presence of asbestos via reports provided by CDOT, as discussed in this manual. Only the asbestos that could reasonably be expected to be disturbed (e.g. 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, and/or tile or linoleum on a concrete slab that may be disturbed) will be abated by CDOT, based on the report recommendations. Third parties that purchase a building from CDOT and move it to another location will not receive ANY form of certification that the regulated 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 CDOT. In the case where a building has been sold to a third party and contains luminous (Tritium) exit signs, the CDPHE will be notified of the change in ownership status.

NOTE: Some counties may require removal of ALL exterior ACM when a house is being moved, however, CDOT 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 Inspection Process

- A. Asbestos inspections must be conducted on all buildings scheduled for renovation (if the renovation has potential to involve removal or damage to suspect ACM), or demolition, whether owned by CDOT 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 CDOT 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 managed by Property Management for asbestos inspections. The reports generated from the inspections are intended be used by all who may be involved in any renovation or demolition activities including the Region or the Property Management Section.
- C. To request an inspection, the Region completes the Property Management Checklist for Asbestos and Demolition of Property Form (Exhibit C, which is located on the Property Management web site under Hazardous Waste Management and Demolition) which is to include the appropriate project coding information, as well as all services being requested and sent to the Property Management Section. 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 CDOT 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 ACM 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 Property Management Section contract manager can request 24-hour turn around on the analysis of samples, which can speed up the process by about one week. There is a licensed inspector in the Property Management Section available to answer questions.
- F. Abatement recommendations contained in the inspection report apply to those materials that must be abated prior to demolition or renovation of 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.

- G. When asbestos inspections are requested, it is the practice of the Property Management Section to request inspection of the entire building, not just the area identified for the current project. This is a cost effective approach to cover both current and future work. The Property Management Section maintains a library of all reports with copies (e-files) sent to the Region. 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 CDOT 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 Property Management Section the report is reviewed for accuracy and Regulatory compliance. There is also a non-project specific contract in place for asbestos abatements that may be used by either the Region or the Property Management Section.
- 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 CDPHE 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 CDPHE prior to demolition, whether the building is demolished by the Property Management Section, CDOT forces, demolition contractor or by the construction contractor. If the Property Management Section 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 Property Management Section will submit Demolition Notifications to the Region for further handling by the construction contractor.
- E. 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.

3. Asbestos Disclaimer

The disclaimer below should be included in any sales contact or Memorandum of Agreement and made a part of the contract 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 _____(insert all that apply)_____, 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 CDOT 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, OSHA regulations require disclosure to demolition workers of whether building painted surfaces contain any measurable concentration of lead. OSHA considers paint containing any concentration of lead as a potential hazard to health and requires an exposure assessment for work activities that may disturb lead containing paint. If paint contains lead, then the employer must provide engineering controls and/or personal protective equipment to their workers. Additionally, lead-containing painted building components require a hazardous waste characterization pursuant to 40 CFR 262.11 and 40 CFR 261.24. It is a standard industry approach that demolition waste characterization be performed on structures containing lead at concentrations greater than 0.01% total lead. This waste characterization procedure involves collecting a composite sample representative of all building components that are demolished (painted and non-painted) and that the composite sample be laboratory analyzed by the Toxicity Characteristic Leaching Procedure (TCLP) analysis. The TCLP limit for lead is 5.0 parts per million (ppm) in the sample leachate. Composite samples that exceed this limit characterize the building debris for disposal as a hazardous waste. Composite samples that do not exceed this limit may be disposed as a solid waste.

Building demolition requests sent to the Property Management Section will be handled by performing a paint inspection for total lead concentrations to identify demo worker exposure issues as well as to properly characterize the building demolition debris for disposal.

Although LBP inspections/abatements 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 CDOT, 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 the Property Management Section.

A. The Hazardous Materials Management 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.

- B. 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.
- C. There are non-project specific contracts in place through CDOT's Contracts & Agreements and Procurement offices for lead based paint sampling and reporting.

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 the Property Management Section.

NOTE: The primary source of lead poisoning is the ingestion of paint and especially paint dust 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. Care needs to be taken in removing paint to ensure it does not get mixed into the soil.

5. Other Hazardous Wastes

As part of the initial asbestos inspection survey and prior to demolition, the Property Management Section will survey the buildings and site for additional hazardous waste. Included in the survey will be a list of all fluorescent lights and ballasts, certain luminous exit signs, mercury containing switches or equipment, lead and other heavy metal containing electronic equipment, batteries, paints, petroleum products, drums and other containers of chemicals, etc. The Project Manager will work with the Procurement Office to arrange for bids and a Purchase Order for the proper collection and disposal of this material.

7.3.6 - Highway Maintenance Facilities Services

1. Petroleum Operation Services

Many of CDOT's maintenance facilities are located in remote areas where local petroleum supplies are either few or 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 and underground storage tanks (ASTs and USTs) at many of the highway maintenance facilities (CDOT's Gateway Facility is the only remaining UST). Most of CDOT's vehicle maintenance buildings are set up to change used motor oils and hydraulic fluids for fresh oils. Both the fresh oils and used oils require storage containers to be maintained on site. The State of Colorado regulates certain ASTs and USTs under 7 CCR 1101-14. The Federal government regulates certain petroleum containers under 40 CFR, Part 112.

- A. ASTs and USTs as governed under State regulations require various daily, monthly and annual operational maintenance tasks. UST Operators and their supervisors are required to be trained in the use and maintenance of the tanks. The Property Management Section works with the Regional staff and State regulators to insure that all such tanks meet CDOT's needs and regulatory requirements.
- B. ASTs under Federal regulations require a Spill Prevention, Control and Countermeasures Plan (SPCC Plan) if the total petroleum storage capacity at the site (55-gallon containers and larger) equals or exceeds 1320 gallons. The Plan discusses how to prevent a spill and proper procedures for containing and cleaning up a spill and who to call. Such plans must be renewed every 5 years or sooner if there are significant changes to the site. The Property Management Section conducts a site inspection in accordance with regulations and is responsible for the creation of the plans and assists with implementation of the plan and training of the Region staff. A copy of the site-specific plan is kept at each facility that falls under the regulations.

2. Spill Cleanup Services

- A. The Property Management Section is prepared to assist the Regions in the investigation and cleanup of spills or releases from storage tanks (including orphan tanks) or operations for petroleum, liquid de-icers or any other solid and liquid materials. The Property Management Section has contractors on board to handle any cleanup necessary. This service applies to both right of way and General Ledger properties regardless of the origin of the spill. The Property Management Section also tracks all spills on CDOT properties that have been reported to the Colorado Department of Public Health and Environment.
- B. Spill cleanup from certain State regulated AST's and UST's can be reimbursed by the Colorado Department of Labor and Employment. The Property Management Section process applications for eligible sites to the CDOLE reimbursement fund for CDOT.

3. Site Inspections

The Property Management Section staff conducts periodic broad site safety and environmental inspections of Highway Maintenance properties. The purpose of the inspections is to assist the Regions in meeting CDOT's basic safety and environmental policies as spelled out in Policy Directives 805 and 1902.