

8.0 Right-of-Way

At the level of design completed at the issuance of this document, it has been determined that this Project will be constructed on or within existing CDOT ROW and/or within existing United States Forest Service (USFS) Easements.

8.1 Administrative Requirements

CDOT will retain possession of each parcel and all improvements, if any, made thereon by the Contractor. The Contractor's access and use of the ROW arises solely from the permission granted by CDOT under the Contract.

8.1.1 Status of Right-of-Way

All work shall be completed within the existing CDOT ROW and/or existing USFS Easements. The Contractor shall be responsible for all costs for any additional ROW required to construct the Work for the Project. CDOT will acquire all permanent ROW for the Project, including Permanent Easements (PEs). The ROW Plans included in the Reference Documents shows the ROW that CDOT owns.

The Contractor shall not trespass on private property. If CDOT discovers a trespass, the Contractor shall promptly vacate possession of the private property upon receipt of notice of the trespass from CDOT. The Contractor shall be liable for all mitigation costs and damages as provided by law and in accordance with the Contract.

8.1.2 Acquisition and Relocation Standards

All ROW acquisition will be performed in accordance with all applicable federal and state laws, including:

1. The federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, including regulations promulgated pursuant to such Act, which appear at 49 CFR Part 24, as amended.
2. Right of Way Requirements for Design Build Projects, 23 CFR 710.313.
3. The Colorado Relocation Assistance and Land Acquisition Policies Act, Section 24-56-101, *et seq.*, C.R.S., as amended.
4. The Colorado Eminent Domain Act, Section 38-1-101, *et seq.*, C.R.S., as amended.
5. CDOT's Right of Way Manual, as amended.
6. CDOT's authority to acquire property and to acquire through eminent domain, if necessary, is set forth in Section 43-1-208, 210 and 43-3-106, C.R.S., as amended.
7. If the acquisition of additional ROW by the Contractor is Approved by CDOT (Contractor Acquisitions), all appraisals, acquisition negotiation, and relocation shall be done by CDOT-Approved consultants.
8. All Contractor Acquisitions will be acquired in CDOT's name.

8.1.3 Right-of-Way Manager

CDOT will retain a Right of Way Manager if ROW acquisition by the Contractor (Contractor Acquisitions) is Approved by CDOT. The CDOT ROW Manager shall coordinate all acquisition and relocation activities.

8.2 Acquisition and Relocation Requirements

8.2.1 Temporary Easements

Should the Contractor determine it needs Temporary Easements (TEs), the Contractor shall submit a written request to purchase such TEs to CDOT for Approval. Each request shall include the following documentation:

1. Identification of the TEs and a justification explanation for their need. An illustration of each TE superimposed on an aerial photograph with the dimensions of the requested TE will be sufficient.
2. A preliminary cost estimate for each TE that includes separate values for land and improvements, if any improvements will be affected, and appraisal (if needed) and acquisition costs.

Book 2 Section 8: Right-of-Way

3. Conveyance deeds showing the names of the current owners of all properties from which TEs will be needed.

CDOT will review each request and, if Approved, shall notify the Contractor in writing. If CDOT Approves the request, CDOT will be responsible for acquiring such TEs, however, all costs and expenses shall be borne by the Contractor.

If there are any time delays as a result of acquisition or condemnation proceedings, all costs associated with such time delays shall be borne by the Contractor. The Contractor may be required to provide personnel for pre-trial and court testimony for each condemnation request.

8.2.2 Utility Easements

Construction of the Project may affect existing Utilities. The acquisition of Utility Easements (UEs) requires prior Approval by CDOT. Acquisition of UEs must be conducted in compliance with Section 8.2.3.

8.2.3 Request for Additional Right-of-Way and Permanent Easements

Should the Contractor determine that additional ROW parcels or PE parcels (including UEs) are necessary or desirable for the Design, the Contractor shall submit a written request to CDOT for Approval. The need for additional ROW will trigger a National Environmental Policy Act (NEPA) evaluation.

CDOT will review each request and, if Approved, shall notify the Contractor in writing.

If there are any time delays as a result of acquisition or condemnation proceedings, all costs associated with such time delays shall be borne by the Contractor. The Contractor may be required to provide personnel for pre-trial and court testimony for each condemnation request.

8.2.4 Permission to Enter Property

The Contractor shall secure Permission to Enter Property forms prior to entering any property outside the ROW for surveying and nonintrusive environmental investigation. It shall be the Contractor's sole responsibility to obtain the forms, and the Contractor shall be responsible for any and all damages and claims. The Contractor shall submit copies of all Permission to Enter Property forms to CDOT for Acceptance.

8.3 Construction Requirements

8.3.1 Demolition

In the event that ROW acquisition has been Approved by CDOT that includes acquisition of structures or improvements, demolition of such structures and improvements shall be completed in compliance with this Section. The Contractor shall conduct and document asbestos and hazardous waste, including lead-based paint inspections and any required action in accordance with Book 1 of the Contract Documents. All Utilities associated with such buildings, structures, and other improvements installed on or connected to the ROW shall be abandoned or removed in accordance with the requirements of the applicable Utility Owner as part of the demolition, unless otherwise noted.

The Contractor shall, in accordance with all federal, state, and local regulations, properly remove and dispose of all regulated asbestos-containing material, all universal and other types of hazardous waste, and any other regulated material other than solid waste prior to demolition of any property. The Contractor shall also obtain all permits or other approval documents required by state and local government, including a demolition plan Approved by the CDOT Manager of Property Management at Headquarters in accordance with the Occupational

Book 2 Section 8: Right-of-Way

Safety and Health Administration (OSHA) demolition regulations 1926.850 prior to demolition of any property. Such documentation shall be submitted to CDOT for Acceptance at least 15 days prior to demolition.

8.3.2 Restoration of Property and Landscape

TEs are temporary rental of property. At the end of the rental period, property occupied by the Contractor under a TE shall be returned to the landowner in the same, or better, condition it was in prior to taking possession. The Contractor shall, at its sole cost and expense, repair and/or replace or restore any damage to a TE property that may occur as a result of the Contractor’s occupancy, to a condition reasonably equal to, or better than, that existing prior to the damage. Restoration may include, but is not limited to, repair, replacing in kind, rebuilding, or replanting. Such restoration shall be completed prior to the termination date of the TE rental term.

8.3.3 Protection of Property

Once permission to enter has been acquired for a property in accordance with the requirements herein, the Contractor shall manage and minimize losses to the property in accordance with the requirements of Book 2, Section 18. This shall include the installation of temporary chain-link security fencing sufficient to contain animals, people, etc. The temporary fencing shall be installed prior to removing any ROW fencing or sound barrier in place within the Project limits.

8.4 Deliverables

At a minimum, the Contractor shall submit the following to CDOT for Review, Approval, or Acceptance:

Table 8-1: Deliverables by the Contractor

Deliverable	Review, Acceptance, or Approval	Schedule
Request for additional ROW (letter)	Approval	As needed
Permission to Enter Property form	Acceptance	Prior to entering private property
Asbestos and lead based paint documentation	Acceptance	15 days prior to demolition

All deliverables shall also conform to the requirements of Book 2, Section 3.

8.5 Appendices

APPENDIX A

STEPS OF THE CDOT RIGHT OF WAY ACQUISITION PROCESS, ENTITY RESPONSIBLE FOR COMPLETION OF EACH STEP, AND APPROXIMATE TIME FRAMES

Description of ROW Task	Entity Responsible for Completion of ROW Task	Approximate Time Frame for Completion of ROW Task	Entity Responsible for Review and Approval of ROW Task	Approximate Time Frame for Completion of Review and Approval of ROW Task	Comments
Survey	Contractor	Variable depending on scope 2-4 weeks for smaller surveys, 2-4 months for larger surveys	CDOT Region 1 Survey/ROW Plans Unit	2-3 weeks from submission	This is only survey of property boundary and topography needed for development of ROW Plans
Delivery of Engineering Design of Improvements Requiring ROW Completed to a Sufficient Level to Ensure that Location, Size and Shape of ROW Parcels Will Not Change as Design is Advanced	Contractor	Variable depending on scope of improvements to be designed	CDOT Design Review Team and CDOT Region 1 ROW Manager	Variable depending on scope of improvements designed	Completion of sufficient design to this level is a common cause of delay in the ROW plans development process

Book 2 Section 8: Right-of-Way

Description of ROW Task	Entity Responsible for Completion of ROW Task	Approximate Time Frame for Completion of ROW Task	Entity Responsible for Review and Approval of ROW Task	Approximate Time Frame for Completion of Review and Approval of ROW Task	Comments
Preparation of ROW Plans	CDOT	Variable depending on scope 2-4 weeks for small ROW Plan sets, 2-4 months for larger ROW Plan sets	CDOT Region 1 Survey/ROW Plans Unit	2-3 weeks from submission per plan review iteration (2 plan review iterations are typical)	Completion of ROW Plans is a common cause of delay in the ROW plans process
Appraisal	Appraisal: CDOT	6-8 weeks per appraisal per landowner	CDOT	1-2 weeks to review an appraisal	If the estimated value of the acquisition is \$25,000 or less, a value finding can be prepared by a real estate specialist and an appraisal/appraisal review is not needed. All requests for valuation by a value finding vs. an appraisal must be Approved by CDOT.
Review Appraisal	Appraisal Review: CDOT	1-2 weeks to review an appraisal	CDOT	1-2 weeks to review an appraisal	If the estimated value of the acquisition is \$25,000 or less, a value finding can be prepared by a real estate specialist and an appraisal/appraisal review is not needed. All requests for valuation by a value finding vs. an appraisal must be Approved by CDOT.

Book 2 Section 8: Right-of-Way

Description of ROW Task	Entity Responsible for Completion of ROW Task	Approximate Time Frame for Completion of ROW Task	Entity Responsible for Review and Approval of ROW Task	Approximate Time Frame for Completion of Review and Approval of ROW Task	Comments
Acquisition Negotiation	CDOT	4-6 weeks for the initial negotiation. 2 weeks for a final offer letter. 2 weeks for a last and final offer letter, if given. At least 3 months from submission of request for condemnation to completing immediate possession hearing.	CDOT must review and Approve certain administrative settlements. CDOT Region 1 shall be delegated the same administrative settlement authority as “Central Office” as set forth in Section 10.2.2 of the CDOT ROW Manual.	2-4 Days to review and Approve backup documentation of completed acquisition negotiations	

Book 2 Section 8: Right-of-Way

Description of ROW Task	Entity Responsible for Completion of ROW Task	Approximate Time Frame for Completion of ROW Task	Entity Responsible for Review and Approval of ROW Task	Approximate Time Frame for Completion of Review and Approval of ROW Task	Comments
Condemnation	Colorado Attorney General's Office	At least 3 months to file a condemnation petition, serve it on the parties, set and hold an immediate possession hearing. Valuation trials can take a year or more from the date of filing the condemnation petition.			All offers to purchase must be made in CDOT's name, so the Attorney General's Office is properly authorized to represent CDOT as the condemning authority in the condemnation proceeding.
Certification that Acquisition was completed in compliance with State and Federal Requirements	CDOT		CDOT Region 1 ROW Manager		