



Board Summary Report

TO: Arapahoe County Board of Commissioners
THRU: Bryan D. Weimer, Public Works Director
THRU: Peter Kozinski, Transportation Director
FROM: Art Negretti, Capital Improvements Project Manager
DATE: April 26, 2019

SUBJECT: ILIFF OPERATIONAL IMPROVEMENTS PROJECT UPDATE AND RIGHT-OF-WAY PROCESSES UNDERWAY (PROJECT C15-002 AND C15-026 CDOT PROJECT STU C100-039, SUBACCOUNT 20992)

DIRECTION/INFORMATION

The Public Works and Development Department (PWD) via an Informational Study Session desires to update the Board of County Commissioners (BoCC) on the above referenced project and the current status of the right-of-way (ROW) processes that are underway. In addition to answering questions, staff would welcome any direction the BoCC desires to provide on the overall project and specifically the upcoming ROW acquisition phase. As part of the update, Staff will inform the BoCC on the scope, current status of the project and the potential need to pursue eminent domain to facilitate the implementation of the project.

REQUEST and RECOMMENDATION

In the interest of efficiency and responsive government, Transportation Division Staff is updating the Board of County Commissioners on the evolving project status and the scope / complexity the right-of-way process that facilitates Project.

For the sake of simplicity; fee simple right-of-way, temporary and permanent easements are referred to as acquisitions in this BSR.

Staff is requesting that the Director of the Public Works and Development Department be authorized to sign closing documents related to Iliff Avenue property acquisitions approved by the BOCC. If the BOCC is supportive of assigning this authority, PWD will submit a separate Consent Agenda Item for such action. The PWD Director already has authority via Resolution #190049 to sign Memorandums of Agreement for conveyance of rights-of-way and easements to the County with the BOCC required to accept conveyances via separate Board Actions/resolutions.

LINKS to ALIGN ARAPAHOE**Quality of Life**

This project will improve operational efficiency and provide multimodal transportation with transit, bicycle and pedestrian enhancements. The County's infrastructure will be improved and its service life extended.

Fiscally Responsible

Using federal funding leverages the use of County dollars for needed public infrastructure improvements, which allows the County dollars to be stretched further. Investment in County infrastructure improves the County's economic environment by providing accessibility and stimulating development.

Service First

Being proactive with regard to traffic flow and congestion of the Iliff Corridor, the County will be exemplifying innovation to its residents and neighboring agencies: Denver, Aurora and CDOT. This project will also improve access to County services and facilities.

BACKGROUND

In 2014, improvement of Iliff Avenue, between Quebec Street and Parker Road was identified as a priority for Arapahoe County, and the proposed Project was submitted to DRCOG for federal funding. The Project was selected to receive federal funding in the amount of \$17,346,000 in the 2016-2021 TIP. Following this award, Staff made application for safety funding along the corridor and the Project was awarded an additional \$731,259 of Federal Highway Safety Improvement Program (HSIP) funds. The proposed project includes widening of the roadway to accommodate additional turn lanes, wider sidewalks, bicycle lanes, and intersection modifications to facilitate operational improvements. The Project will also update all intersection crossings to current American with Disabilities Act (ADA) and Proposed Right-of-Way Access Guidelines (PROWAG) compliant ramps. Furthermore, the project will provide a pilot program for street lighting within the corridor and may also include a 5G co-location initiative.

In the design phase of the project, staff and our consultant team made many efforts to minimize the impact to adjacent landowners by narrowing lanes, modifying medians and applying practicable design standards. Despite our best efforts, sufficient public Right-of-Way (ROW) does not exist to construct the required improvements and thus property acquisition from adjacent landowners will be required. The amount of property needed varies from parcel to parcel depending upon the roadway cross-section. The width of the parcels needed range from about five feet to about fifteen feet.

It is estimated that approximately 142 ROW acquisitions affecting 65 properties will be needed for this project. While, no full acquisitions are anticipated this may change as we proceed with the acquisition of the needed properties following the Uniform Act and 49 CFR 24, which must be followed when any project utilizes federal funds (<https://www.govinfo.gov/content/pkg/CFR-2011-title49-vol1/pdf/CFR-2011-title49-vol1-part24.pdf>).

The Project is scheduled for construction starting in Q3 of 2020 and to stay on schedule the County needs to start the ROW acquisition process now. To start the process, owners first receive notice of intent to acquire, then have time to contact our agent and to get their own independent appraisals. They receive a

Fair Market Value offer, and opportunities to negotiate. The County cannot advertise the project for construction until CDOT and FHWA have approved the ROW process, meaning all parcels are either acquired or the County has been granted Possession and Use.

DISCUSSION

The County, through HC Peck, will attempt to negotiate voluntary purchases for each of the ROW parcels that are required for the project. However, some owners could be resistant to selling their property for ROW for various reasons, ranging from having complex ownership structures such as Home Owners' Associations (HOAs) or owners having disparate expectations of the County or the Project. For all properties, HC Peck and County Staff will nevertheless attempt to acquire the property first through negotiation and voluntary purchase. In the event, however, that such negotiations are not successful in any particular case, the County may need to resort to eminent domain proceedings to acquire such property. While staff views eminent domain as a last resort for acquiring the necessary ROW for this project, in the event that it becomes necessary, such proceedings will be subject to the requirements of both state and federal law. Moreover, for all the properties to be acquired, whether through negotiation or through last resort eminent domain proceeding if negotiations are unsuccessful, the acquisition process is subject to the federal Uniform Act., mentioned above, which ensures the fair and equitable treatment of persons whose real property is to be acquired for public projects.

Additional details regarding this Act can be found at:

<http://www.thecre.com/fedlaw/legal26/10.htm>).

There are approximately 142 ROW acquisitions expected for the project.

- Donations - Unknown
- Purchases – Approximately 64 acquisitions will be the fee simple right-of-way
- Permanent Easements - Approximately 4 acquisitions will be for permanent easement.
- Temporary Easements - Approximately 74 acquisitions will be for “temporary easements” that allow the County to use the defined property for a given time period and purpose. At the end of the project, the property is retained by the landowner.

Following the completion of the Project the ownership of the acquired fee simple right-of-way and permanent easement will fall into one of the 4 groups:

1. Properties acquired in unincorporated Arapahoe County, which will remain the County's property after the Project. This is the majority of acquisitions.
2. Properties acquired in the CDOT SH 83 corridor, Parker Road, which will become CDOT's property and responsibility after the Project.
3. Properties acquired in the City and County of Denver, which will become Denver's property and responsibility after the Project.
4. Properties acquired in the City of Aurora, which will become Aurora's property and responsibility after the Project.

NOTE It is not in the County's interest to own property in municipalities or another county, or where another agency is responsible for maintenance and operations.

ALTERNATIVES

There are no alternatives applicable for this study session as it is an update on the project.

FISCAL IMPACT

There is NO funding required for this Study Session discussion. Subsequent funding for the Project's ROW will be handled under a separate agenda items as they are finalized.

The Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) for the Iliff Operational Improvements Project, identifies \$1.3M for ROW acquisition. Eighty percent (80%) of actual ROW acquisition costs will be reimbursed to the County by CDOT (up to \$1,040,000). The remaining twenty percent (20%) (\$260,000) of the ROW costs will be the County's required match. All ROW costs over the \$1.3M IGA amount will be the County's responsibility. However, Staff has the opinion that the current ROW estimate is approximately \$5M. Once appraisals have been completed, staff will have a better idea what the actual financial implication for the project is associated with right-of-way acquisition.

CONCURRENCE

ATTORNEY COMMENTS - The County's Attorney's Office has reviewed both requests and resulting comments were addressed.

REVIEWED BY:

Arthur Negretti, Staff
Bryan Weimer, Department Director
Peter Kozinski, Transportation Division Manager
Todd Weaver, Finance Department
Robert Hill, Assistant County Attorney

cc: **Email** _____
Bryan D. Weimer, Director, PWD
Peter Kozinski, Transportation Division Manager
Karl Packer, acting CIP Manager
Arthur Negretti, CIP Engineer III
Scan to Project Files
Leanna Quint, Finance Budget Analyst
Loren Kohler, Finance Department
File (C15-029)
File (C15-026)

Hard Copy _____
Kim Lynch, Business Associate
Rhonda Robinson, Budget Analyst
File (C15-029)
File (C15-026)