

Resolution # TC-17-6-14

R2 SH 94 MP 3.5 to 4.5 Project, Project No. STA 094A-034, Project Code 20589

Approving the property acquisitions and settlement amounts, which have been agreed to or ordered for the property specified below.

Approved by the Transportation Commission on June 15, 2017.

WHEREAS, the Transportation Commission is authorized pursuant to Section 43-1-106(8), C.R.S. to formulate the general policy with respect to management, construction and maintenance of public highways and other transportation systems in the state and to promulgate and adopt all budgets of CDOT; and

WHEREAS, pursuant to Colorado law at Section 43-1-208, C.R.S., the Colorado General Assembly has conferred the power of eminent domain upon the Transportation Commission to acquire private property necessary for state highways purposes; and

WHEREAS, on April 24, 1994 the Transportation Commission adopted Resolution TC-271 (“TC-271”), which directed the “Executive Director of the Department of Transportation, or his delgatee, to handle on its behalf consistent with State and Federal Laws, both the approval for land acquisition actions and the tendering of payment to landowners for damages in connection with previously approved highway projects;” and

WHEREAS, on September 26, 2016 the Colorado Supreme Court announced its decision in *Department of Transportation v. Amerco Real Estate Company, et al.*, 2016SA75; and

WHEREAS, the *Amerco Real Estate Company* opinion held that the Transportation Commission must decide that the public interest or convenience will be served by a proposed alteration of a state highway and that the Commission’s decision must be made in consideration of the portions of land of each landowner to be taken and an estimate of the damages and benefits accruing to each landowner prior to authorizing condemnation of property; and

WHEREAS, the *Amerco Real Estate Company* opinion also held that “the decision whether, and if so precisely how and for how much, to take particular property, for a particular proposed highway alteration project, clearly involves the kind of judgment and discretion that is non-delegable in the absence express statutory authorization.” *Amerco Real Estate Company*, 2016SA75, ¶15; and

WHEREAS, prior to the *Amerco* opinion, relying on TC-271, the Chief Engineer and or CDOT staff began negotiations for acquisition of certain parcels of land without Transportation Commission approval—operating off of the prior TC-271 Resolution, which delegated this authority to CDOT; and

WHEREAS, CDOT staff, without initiating or conducting condemnation proceedings, successfully reached an agreement with the landowners listed below; and

WHEREAS, the Transportation Commission must now approve and ratify all final settlement amounts that did not require approval by the Regional Transportation Director and Chief Engineer, as set forth in the Right-of-Way Manual in relation to the below acquisitions and must approve the actual size of the acquisition; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through settlement;

Property Location	Approved Chief Engineer's Estimate of Damages and Benefits or Appraised Value	Approved Size of Acquisition	Actual Size of Acquisition	Settlement Amount
Owner: BLH NO 1, LLC SH 94 Milepost 4.08 in SE ¼ of Sec 11, Twp 14S, Range 65W (Parcel PE-1)	\$700.00	25,664 SF	25,664 SF	\$4,620.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby affirms, ratifies, and makes effective as officially sanctioned actions of the Transportation Commission the final settlement amounts and acquisition size agreed to by CDOT and landowners with respect to the above listed acquisitions.

Herman J. Stockinger III
Herman Stockinger, Secretary
Transportation Commission of Colorado

6-15-17
Date