

Resolution # TC-18-05-11

R2 SH 96 Bridge Structure K-17-F, FBR 096A-047, Project Code 21011

Affirming the property acquisitions and settlement amounts, which have been agreed to for the properties specified below.

Approved by the Transportation Commission on May 17, 2018.

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, on November 16, 2017, the Transportation Commission entered resolution TC-17-11-5 ("Resolution") upon its minutes for SH 96 Bridge Structure K-17-F Project, Project Number FBR 096A-047, Project Code 21011; and

WHEREAS, the Resolution determined that the public interest or convenience will be served by the proposed alterations to State Highway No. 96 approved acquisition of properties needed for the proposed alterations, approved the Chief Engineer's estimate of value, damages and benefits, if any, accruing to each landowner, and authorized the CDOT Chief Engineer and CDOT staff to negotiate with landowners; 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 acquisitions; 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	Approved Size of Acquisition	Actual Size of Acquisition	Settlement Amount
Owner: Ranch Land Development, LLC N ½ SW ¼ and NW ¼ SE ¼ Sec. 33, T20S, R67W (Parcel TE-1)	\$260.00	60,353 sf / 1.38 acres	60,353 sf / 1.38 acres	\$260.00
Owner: Joseph M. Mikula and Eloise A. Wenzel 7689 W. SH 96, Pueblo (Parcel TE-2)	\$200.00	11,422 sf / 0.262 acres	11,422 sf / 0.262 acres	\$200.00

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

5-17-18
 Date