

Resolution #TC-2021-03-07

R4 I-25 Express Lanes SH 7 to SH 1 Project, Project Number NHPP 0253-270, Project Code 22831

Authorizing the Chief Engineer to initiate and conduct condemnation proceedings pursuant to articles 1 to 7 of title 38, C.R.S. for the properties specified below.

Approved by the Transportation Commission on March 18, 2021.

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 September 26, 2016 the Colorado Supreme Court announced its decision in *Department of Transportation v. Amerco Real Estate Company; U-Haul Company of Colorado; 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 Transportation Commission is authorized to either direct the Chief Engineer to make tender to a landowner or the Transportation Commission can proceed in the acquisition of private lands for state highway purposes, according to articles 1 to 7 of title 38, C.R.S., without tender to the landowner; and

WHEREAS, the *Amerco Real Estate* opinion further held that the Transportation Commission could delegate to the "legal staff or representatives of the commission or department" the "initiation and conduct of condemnation proceedings." *Amerco Real Estate Company*, 2016SA75, ¶15; and

WHEREAS, on July 18, 2019, the Transportation Commission entered resolution TC-19-07-03 upon its minutes for I-25 Express Lanes SH 7 to SH 1 Project, Project Number NHPP 0253-270, Project Code 22831; and

WHEREAS, the Resolution determined that the public interest or convenience will be served by the proposed alterations to Interstate 25, 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, pursuant to the Resolution CDOT attempted to negotiate with the landowner), but negotiations with the landowners were unsuccessful; and

WHEREAS, the Properties sought by CDOT may include buildings, structures, or other improvements on the real Property and may also include tenant-owned improvements, personal property, and other real estate; and

WHEREAS, CDOT does not have possession of the Properties and CDOT's inability to work on the Property will likely cause delay to the Project, possibly resulting in significant monetary harm to CDOT; and

WHEREAS, the Transportation Commission acknowledges that it or its predecessors previously reviewed the written report of the Chief Engineer seeking approval to negotiate with landowners and has also reviewed the written report of the Chief Engineer seeking approval to initiate and conduct condemnation proceedings, and both reports included all information and documents required pursuant to Section 43-1-208(1), in relation to the Project and the Property; and

NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes CDOT to initiate and conduct condemnation proceedings for the following landowners. If acquisition of the Property requires acquisition of buildings, structures, or improvements on real property as well as acquisition of tenant-owned improvements both real and personal property, or other real estate, the Transportation Commission authorizes CDOT to acquire those items through eminent domain proceedings if necessary.

CDOT may initiate and conduct condemnation proceedings for the following landowners:

1. Landowner Name: RMSJ, LLC
Additional Interest Holder Names: Colorado Central Power Company (easement holder); Panhandle Eastern Pipeline (easement holder); Kerr-Mcgee Gathering LLC (easement holder); Public Service Company of Colorado (easement holder), Minerva Lee, David Lamb and Aims Community College (easement holders as water users of a private irrigation lateral)
Address of Property: 3801 County Road 46, Berthoud, CO 80513
Parcels Required: AP-RW-605 REV, AP-PE-605, AP-TE-605 REV, AP-TE-605A
Estimated Property Value, Damages and Benefits (if any): \$8,200
2. Landowner Name: St. Paul Property Holdings, LLC
Additional Interest Holder Names: Union Pacific Railway Company; RME Petroleum Company & RME Land Corp. (mineral owner); Poudre Valley Rural Electric Association (easement holder); Public Service Company of Colorado (easement holder)

Address of Property: I-25 Gateway Center Filing #4, Lots 5 and 6, Weld County
Parcels Required: AP-RW-615 Rev, AP-PE-615, AP-PE-615A, AP-RW-616 REV, AP-
PE-616, AP-PE-616A

Estimated Property Value, Damages and Benefits (if any): \$343,000.00

3. Landowner Name: I-25 Gateway Center, LLC

Additional Interest Holder Names: Union Pacific Railway Company, RME Petroleum
Company & RME Land Corp. (mineral owner); Poudre Valley Rural Electric
Association (easement holder); Public Service Company of Colorado (easement
holder), Town of Johnstown (easement holder)

Address of Property: I-25 Gateway Center Filing #4, Lots 7-10, Weld County
Parcels Required: AP-RW-618 REV, AP-RW-619 REV, AP-RW-620 REV, AP-RW-621
REV, AP-PE-618, AP-PE-618A, AP-PE-619, AP-PE-619A, AP-PE-620, AP-PE-620A,
AP-PE-621, AP-PE-621A, AP-TE-621

Estimated Property Value, Damages and Benefits (if any): \$573,000.00

4. Landowner Name: I-25 Gateway Center Owner's Association, Inc.

Additional Interest Holder Names: Union Pacific Railway Company, RME Petroleum
Company & RME Land Corp. (mineral owner)

Address of Property: I-25 Gateway Center Filing #4, Outlot A, Weld County
Parcels Required: AP-RW-622 Rev, AP-PE-622, AP-TE-622 REV

Estimated Property Value, Damages and Benefits (if any): \$49,150.00

Herman F. Stockinger A A A

Herman Stockinger, Secretary
Transportation Commission of Colorado

3/18/21

Date