

Resolution # TC-17-11-[]

R2 SH 96 at MP 38 STR. K-17-F Project, FBR 096A-047, Project Code 21011

Authorizing the Chief Engineer to negotiate with the landowner(s) of the properties specified below.

Approved by the Transportation Commission on _____, 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 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; 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, CDOT seeks to acquire properties, for the SH 96 at MP 38 STR. K-17-F Project, Project Number FBR 096A-047, Project Code 21011 ("Project").

WHEREAS, CDOT may negotiate with the property owners as specified in the attached Chief Engineer's Cost Estimate.

WHEREAS, CDOT seeks to acquire multiple properties, as specified in the attached Chief Engineer's Estimate for the Project ("Properties"). The Chief Engineer's Estimate specifies the landowners, property locations, proposed size of the acquisitions, and the estimated damages and benefits, if any, to the properties; and

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

WHEREAS, the Transportation Commission acknowledges that it has reviewed the written report of the Chief Engineer, which included all information and documents required pursuant to Section 43-1-208(1), in relation to the Project and the Properties; and

WHEREAS, after reviewing the Chief Engineer's written report regarding Project and the Properties, the Transportation Commission has determined that the proposed changes to State Highway No. 96 will serve the public interest and/or convenience of the traveling public and that acquisition of the Properties described in the report will serve the purpose(s) of the Project; and

WHEREAS, the Transportation Commission also approves the Chief Engineer's Cost Estimate of damages and benefits, if any, set forth in his written report.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby declares that the public interest and/or convenience will be served by the proposed changes to State Highway No. 96 by virtue of the SH 96 at MP 38 STR. K-17-F Project, Project Number FBR 096A-047, Project Code 21011, parcels TE-1 and TE-2, and authorizes the CDOT staff to negotiate with the landowner(s) of the Properties the amount of estimated damages, as estimated by the Chief Engineer. If CDOT and a landowner reach a settlement amount that requires approval by the Regional Transportation Director and the Chief Engineer, as set forth in the CDOT Right-of-Way Manual, then the settlement amount is subject to Transportation Commission approval. If acquisition of the Properties 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 negotiate for the acquisition of those items if necessary. At this time, the Transportation Commission does not authorize CDOT to initiate and conduct condemnation proceedings pursuant to Sections 38-1-101 *et seq.* CDOT shall seek separate approval from the Transportation Commission in order to initiate and conduct condemnation proceedings.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date



COLORADO
Department of Transportation
Office of the Chief Engineer
4201 East Arkansas Ave, Suite 262
Denver, CO 80222

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER *Josh Laipply For J Laipply*

DATE: November 2, 2017

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER FBR 096A-047, PROJECT CODE 21011, SH 96 Bridge Structure K-17-F, SEEKING APPROVAL TO NEGOTIATE WITH LANDOWNER(S)

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes ("C.R.S."), Section 43-1-208(1). I deem it desirable to repair bridge structure K-17-F on State Highway 96.

If the Transportation Commission determines that the proposed changes will serve the public interest and/or convenience of the traveling public, I respectfully request that the Transportation Commission enter a resolution upon its minutes, approve the same, and authorize CDOT to negotiate with the landowner(s) for the Properties.

Description of Portion of Highway to be Changed and Proposed Changes

FBR 096A-047, SH 96 Bridge Structure K-17-F ("Project") is necessary for construction of a new bridge structure and detour during construction. This will improve safety and replace a deficient structure and is therefore, desirable. The Project is a bridge enterprise project.

Description of Properties Needed for Project and Estimate of Property Value(s), Damages and Benefits (if any)

There are two Properties necessary for completion of the Project. The following is a list of the parcels required and a description of each parcel's purpose for the Project.

The Cost Estimate approved by Amber Billings, Region 2 Right of Way Supervisor attached to this report, individually lists the estimate of land acquisition costs, property value, and/or damages for each of the Properties required for this Project. The estimated property values along with any damages or benefits, if any, are also described below. In my opinion, the Cost Estimate represents a reasonable budget of the property values, damages, and/or benefits, if any, related to the Properties.

The monetary estimates provided below are for budgetary purposes only, and are subject to change. I anticipate that this figure will increase or decrease as the Department obtains additional information about the acquisition and the Property, as appraisals are considered and evaluated, and as litigation expenses and risks are considered. If necessary, CDOT will seek additional approval from the Transportation Commission to condemn the properties listed below. If CDOT reaches an agreement before CDOT seeks Transportation Commission approval of condemnation, CDOT will re-submit the final settlement for Transportation Commission approval.

There are two temporary easements necessary for the completion of the Project.

1. Address: N1/2 of the SW1/4, NW1/4 and the SE1/4 in Sec. 33 T20S R67W
Landowner's Name: Ranch Land Development, LLC
Current Size of Property: 457.29 acres
Proposed Size of Acquisition: 60,353 SF (1.38 acres)
Purpose of Parcels Necessary for Project:
 - TE- 1: temporary easement, needed for construction of a temporary detour to accommodate a bridge replacement. This Temporary Easement will terminate one (1) year from the date construction starts or 30 days after completion of construction, whichever is earlier. The phrase "date construction starts" means the date the contractor enters the property to begin construction.Estimated Property Value, Damages and Benefits (if any): \$310.00
Method to Determine Property Value, Damages and Benefits (if any): Value was based on comparable sales of similar property near the location of the Property.

2. Address: 7689 W STATE HWY 96, PUEBLO, CO 81005
Landowner's Name: Joseph M. Mikula and Eloise A. Wenzel
Current Size of Property/Size of Larger Parcel: 102.29 acres
Proposed Size of Acquisition: 11,422 SF (0.262 acres)
Purpose of Parcels Necessary for Project:
 - TE- 2: temporary easement, needed for construction of a temporary detour to accommodate a bridge replacement. This Temporary Easement will terminate one (1) year from the date construction starts or 30 days after completion of construction, whichever is earlier. The phrase "date construction starts" means the date the contractor enters the property to begin construction.Estimated Property Value, Damages and Benefits (if any): \$200.00
Method to Determine Property Value, Damages and Benefits (if any): Value was based on comparable sales of similar property near the location of the Property.

Attachments
Right-of-Way Plans
Chief Engineer's Cost Estimate
Legal Descriptions
Proposed Resolution

COLORADO DEPARTMENT OF TRANSPORTATION

Project Code: **21011**

State Highway # **96**

CHIEF ENGINEER'S RIGHT-OF-WAY COST ESTIMATE

Project No: **FBR 096A-047**

Location: **SH96 Bridge K-17-F**

The following is the **estimated** cost of right of way required for the construction of the above captioned project as required by CRS 43-1-208. As shown, the totals include the **estimated value** of the land to be acquired, the value of any improvements thereon and the damage and benefits, if any, to the remaining land. This estimate is prepared and used for budgetary purposes only, and should not be considered an indication of actual market value.

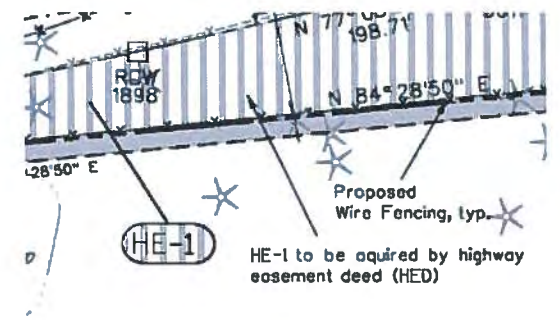
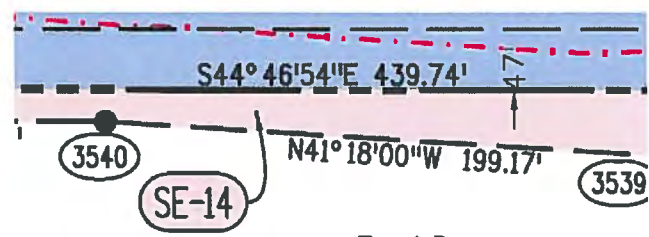
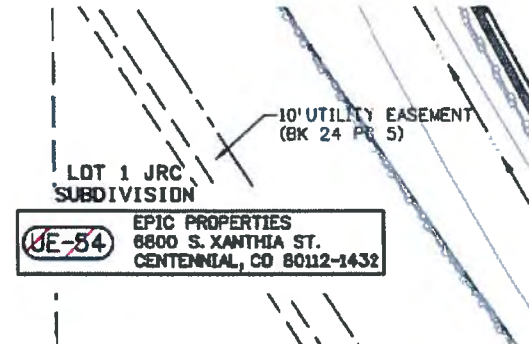
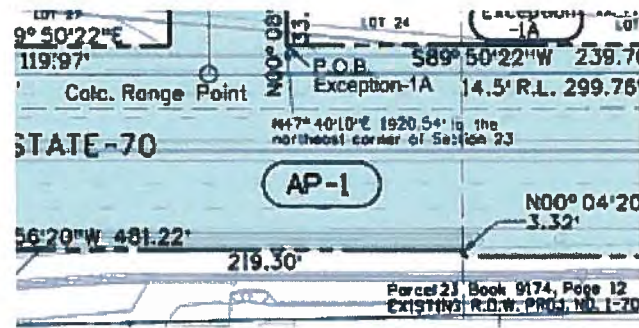
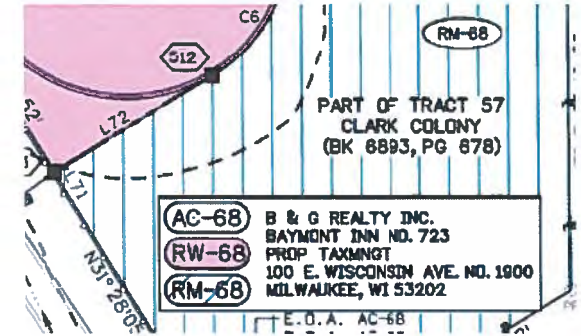
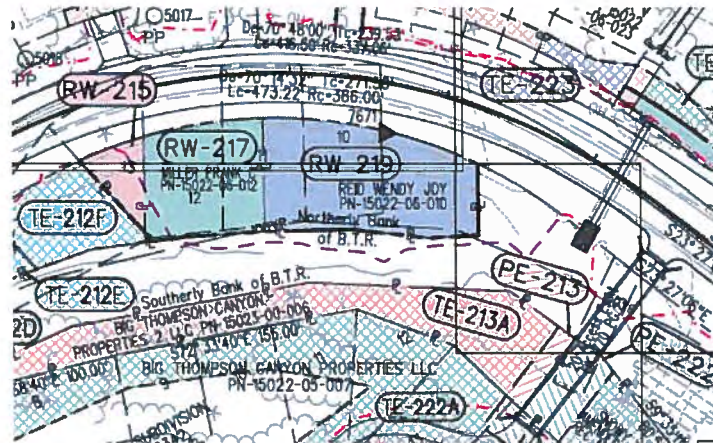
Chief Engineer

 Date: **11-3-17**

Parcel	Owner	Area	Unit	Unit Value		Land Value	Improvements	Damages / (Benefits)	Land Rental (mos)		Total
				\$/Unit	%				Land Rental Cost		
TE-1	Ranch Land Development, LLC	60,353	SF	\$0.05	@ 10%				12	\$ 302	\$ 310
TE-2	Joseph M. Mikula & Eloise A. Wenzel	11,422	SF	\$0.05	@ 10%				12	\$ 57	\$ 200
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Sheet Totals						\$ -	\$ -	\$ -	\$ 359	\$ 510	

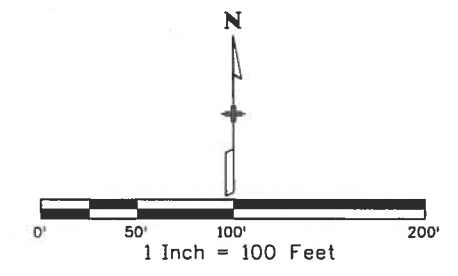
Right Of Way Plan Key - Parcel Designations

RW - XXX	Partial or Complete Parcel Acquisition (Right of Way)
TE - XXX	Temporary Easement
PE - XXX	Permanent Easement
AC - XXX	Access Parcel
RM - XXX	Remnant Parcel
AP - XXX	Early Acquisition Parcel (Advance of Plans)
UE - XXX	Utility Easement
SE - XXX	Slope Easement
HE - XXX	Highway Easement

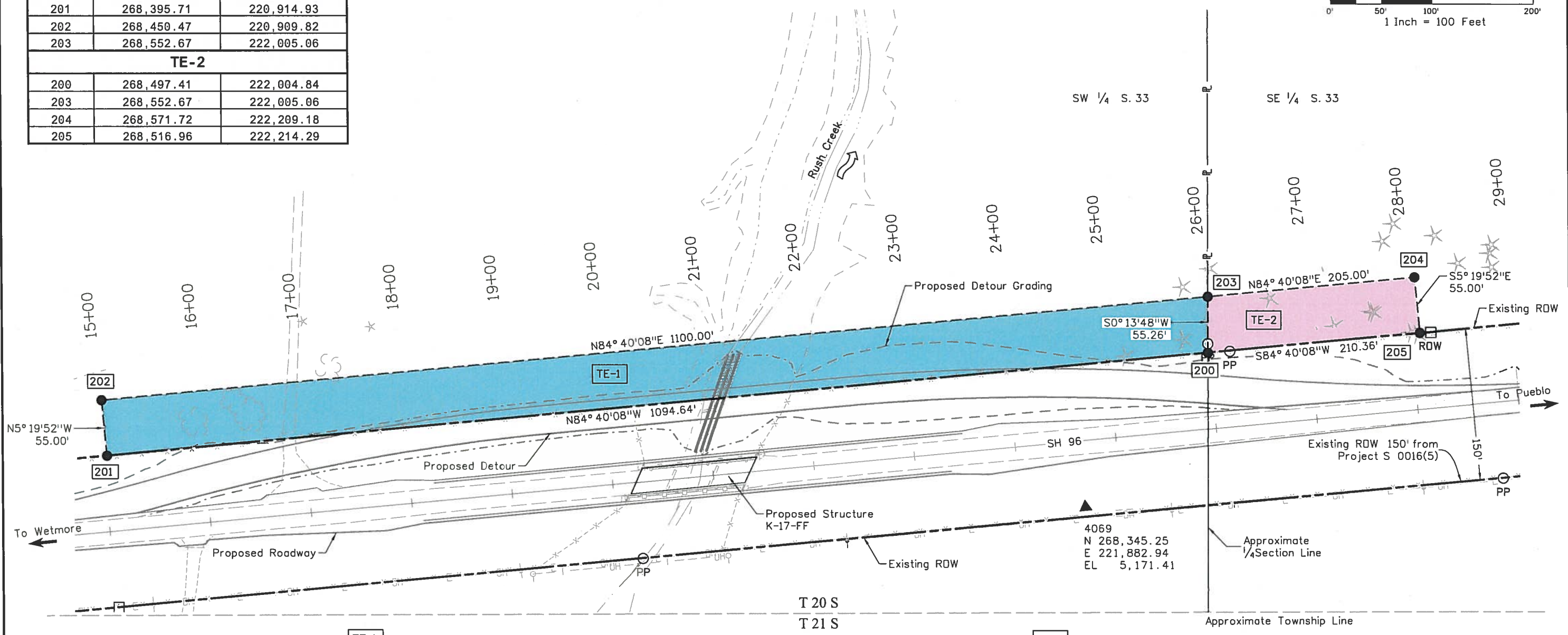


Tract D
Superior Town Center Filing No. 1B
Rec.#03367475, 02/25/2014

STATE HIGHWAY 96 MP 37.5 TO 38.5
INCLUDING STRUCTURE K-17-F
SECTION 33, TOWNSHIP 20 SOUTH, RANGE 67 WEST
OF THE 6TH. PRINCIPAL MERIDIAN
COUNTY OF PUEBLO



TABULATION OF TEMPORARY EASEMENT POINTS TO BE STAKED		
Point No.	Northing(ft)	Easting(ft)
TE-1		
200	268,497.41	222,004.84
201	268,395.71	220,914.93
202	268,450.47	220,909.82
203	268,552.67	222,005.06
TE-2		
200	268,497.41	222,004.84
203	268,552.67	222,005.06
204	268,571.72	222,209.18
205	268,516.96	222,214.29



TE-1
For Bridge Replacement Detour
Parcel Area: 60,353 SF (1.386 acres)
Total Ownership: 457.29 acres
Ranch Land Development, LLC
Mailing Address:
3925 Hill Circle
Colorado Springs, CO 80904

TE-2
For Bridge Replacement Detour
Parcel Area: 11,422 SF (0.262 Acres)
Total Ownership: 102.29 Acres
Joseph M. Mikula & Eloise A. Wenzel
Mailing Address:
PO Box 871
Pueblo, CO 81002

Note: TE = Temporary Easement

COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY PROJECT

ROW PLANS AUTHORIZED

J. Laipply
CHIEF ENGINEER

11-3-17
DATE

Print Date: 10-27-2017
File Name: 21011ROW_Easements_20.dgn
Horiz. Scale: 1" = 100' Vert. Scale: As Noted
Unit Information DTD

Sheet Revisions		
Date:	Comments	Init.

Colorado Department of Transportation

P.O. Box 536
905 Erie Avenue
Pueblo, CO 81002
Phone: 719-546-5454 FAX: 719-546-5414

Region 2 TTA

As Constructed
No Revisions:
Revised:
Void:

RIGHT OF WAY PLAN EASEMENT PLAN			
Designer:	FRM	Structure Numbers	K-17-FF
Detailer:	FRM		
Sheet Subset: EASEMENT		Subset Sheets:	01 of 01

Project No./Code
FBR 096A-047
21011
Sheet Number

morton 8/25/15 AM C:\Projects\21011 ROW_Easements_20.dgn