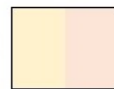


Post-Amerco Real Property Condemnations - Transportation Commission Tracking - November 15, 2018

Condemnation Authorization Requests											
Region 4 - Condemnation Authorization Request											
Transportation Commission District	Project Name	Project #	Project Code	Parcel #	Parcel Size	Property Owner(s)	Valuation Amount	Chief Engineer's Cost Estimate (CECE), Appraisal (A) or Waiver Valuation (WV)	Date of Valuation	Owner's Current Counter-Offer	TC Acquisition Resolution Number (If Applicable)
5	US 34 & US 36 FLAP Estes Park Couplets	STA R400-300	20298	AP-3	3,804 s.f.	Richard D. Slaydon and Sandra L Patterson- Slaydon	\$425,000.00	A	November 16, 2017	\$700,000.00	TC-17-5-11
				AP-4	4,252 s.f.	Mary K. Culp	\$365,800.00	A	November 16, 2017	\$500,000.00	TC-17-6-12
				AP-5	4,908 s.f.	Minglewood, LLC	\$950,000.00	A	March 16, 2018	N/A	TC-17-6-12
Region 5 - Condemnation Authorization Request											
Transportation Commission District	Project Name	Project #	Project Code	Parcel #	Parcel Size	Property Owner(s)	Valuation Amount	Chief Engineer's Cost Estimate (CECE), Appraisal (A) or Waiver Valuation (WV)	Date of Valuation	Owner's Current Counter-Offer	TC Acquisition Resolution Number (If Applicable)
8	US 550 South Connection	FSA 5501-021	19378	AP-RW-7	1.123 acres	Richard A. Carlson	\$67,737.00	A	August 30, 2018	\$108,000.00	TC-17-11-9
				AP-TE-7	3,146 sf (0.0272 acres)		\$3,223.00	A	August 30, 2018		
				AP-TE-7A	12,747 sf (0.293 acres)		\$792.00	A	August 30, 2018		
8	US 550 South Connection	FSA 5501-021	19378	AP-RW-9	1,591 sf (0.037 acres)	Richard A. Carlson	\$2,035.00	WV	September 6, 2018	N/A - Not Received	TC-17-11-9
				AP-TE-9	2,064 sf (0.047 acres)		\$517.00	WV	September 6, 2018		
8	US 550 South Connection	FSA 5501-021	19378	AP-RW-11	2.48 acres	J. Susan Hillmeyer	\$149,907.00	A	May 29, 2018	N/A - Not Received	TC-17-11-9
				AP-PE-11Rev	8,602 sf (0.198 acres)		\$7,663.00	A	May 29, 2018		
				AP-PE-11A	928 sf (0.021 acres)		\$813.00	A	May 29, 2018		
				AP-TE-11A	987 sf (0.023 acres)		\$188.00	A	May 29, 2018		
8	US 550 South Connection	FSA 5501-021	19378	AP-RW-14	1.093 acres	Eagle Block, a Colorado Corporation	\$110,011.00	A	June 5, 2018	N/A - Offer Verbally Accepted	TC-17-11-9
				AP-PE-14	1,235 sf (0.028 acres)		\$1,540.00	A	June 5, 2018		
				AP-TE-14	8,751 sf (0.201 acres)		\$2,334.00	A	June 5, 2018		
8	US 550 South Connection	FSA 5501-021	19378	AP-RW-15	2.125 acres	Jerry T. Piccoli, Janet Maria Piccoli, James Franklin Piccoli, Steven Leo Piccoli, Donald Alex Piccoli, Rita Louise Piccoli and Gina Lee Piccoli	\$52,289.00	A	April 30, 2018	N/A - Offer Verbally Accepted	TC-17-11-9
				AP-PE-15Rev	1,378 sf (0.032 acres)		\$578.00	A	April 30, 2018		
				AP-PE-15A	1,918 sf (0.044 acres)		\$795.00	A	April 30, 2018		
				AP-TE-15Rev	2,1923 acres		\$9,463.00	A	April 30, 2018		
				AP-15-RM	22,357 sf (0.513 acres)		\$10,298.00	A	April 30, 2018		
8	US 160 Passing Lanes North of Towaoc	NHPP 1601-073	20325	RW-11	4,218 sf (0.097 acres)	Jeffrey D. and Tammy E. Coulon (formerly Nancy Nard)	\$4,695.00	WV	October 22, 2018	\$9,500.00	TC-17-1-21
				TE-11	4,567 sf (0.105 acres)		\$297.00	WV	October 22, 2018		

Acquisition Authorization Request



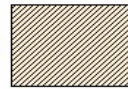
Settlement Authorization Request



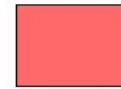
Condemnation Authorization Request



Continuance - No Authorization Requested



Removed from Agenda



Right of Way Plan Key - Parcel Designations

RW - XXX	Partial or Complete Parcel Acquisition	XXX - RM	Remnant Parcel
TE - XXX	Temporary Easement	UE - XXX	Utility Easement
PE - XXX	Permanent Easement	AP - XXX	Early Acquisition (Advance of Plans)

Resolution # TC-18-11-[]

R4 US 34 & US 36 FLAP Estes Park Couplets, STA R400-300, Project Code 20298

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 owned by Richard D. Slaydon, Sandra L. Patterson-Slaydon, Mary K. Culp, and Minglewood, LLC.

Approved by the Transportation Commission on _____, 2018.

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 May 18, 2017 and June 15, 2017 the Transportation Commission entered resolutions TC-17-5-11 and TC-17-6-12 ("Resolutions") upon its minutes for the US 34 & US 36 FLAP Estes Park Couplets Project, Project Number STA R400-300, Project Code 20298 ("Project"); and

WHEREAS, the Resolutions determined that the public interest or convenience will be served by the proposed alterations to U.S. Highways No. 34 and 36, 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 Resolutions CDOT attempted to negotiate with the landowners, but negotiations with the landowners were unsuccessful; and

WHEREAS, the Property 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 Properties 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 landowner 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 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 the condemnation matter is resolved through a certificate of ascertainment and assessment, or verdict then the certificate of ascertainment and assessment, or verdict amount is subject to approval by the Transportation Commission. 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: Richard D. Slaydon and Sandra L. Patterson-Slaydon
Address of Property: 221 E Riverside Drive, Estes Park CO 80517
Parcels Required: AP-3
Estimated Property Value, Damages and Benefits (if any): \$425,000
2. Landowner Name: Mary K. Culp
Address of Property: 201 E. Riverside Drive, Estes Park CO 80517
Parcels Required: AP-4
Estimated Property Value, Damages and Benefits (if any): \$365,800

3. Landowner Name: Minglewood, LLC
Address of Property: 189 E. Riverside Drive, Estes Park CO 80517
Parcels Required: AP-5
Estimated Property Value, Damages and Benefits (if any): \$950,000.00

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date




COLORADO

Department of Transportation

Office of the Chief Engineer
2829 W. Howard Place, Suite 562
Denver, CO 80204

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER 

DATE: NOVEMBER 2, 2018

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER STA R400-300, ESTES PARK ONE-WAY COUPLET, 20298, SEEKING APPROVAL TO INITIATE AND CONDUCT CONDEMNATION PROCEEDINGS

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes (“C.R.S.”), Section 43-1-208(1). On May 18, 2017 and June 15, 2017, the Transportation Commission entered Resolution Nos. TC-17-5-11 and TC-17-6-12 (“Resolutions”) upon its minutes, which determined that the Estes Park One-Way Couplet, STA R400-300, would serve the public interest and/or convenience of the traveling public. The Resolutions also authorized CDOT to engage in negotiations with the landowners listed below.

Unfortunately, after engaging in negotiations, CDOT and the landowners were unable to reach a resolution. As a result, CDOT seeks Transportation Commission approval to initiate and conduct condemnation proceedings pursuant to Colorado Revised Statutes, Section 38-1-101 *et seq.* for the properties listed below.

The project Estes Park One-Way Couplet, STA R400-300 (“Project”) is necessary for rehabilitation or reconstruction of roadway and a bridge, channel and floodplains improvements and realignment of traffic flow. This will increase mobility of traffic accessing Rocky Mountain National Park while relieving congestion and increasing safety for vehicles and Pedestrians in Downtown Estes Park and is therefore, desirable.

Overview of Properties Previously Approved for Negotiation

There are three advance of plans (AP) fee simple acquisitions previously approved for negotiation.

The three property owners and their counsel were informed of the Transportation Commission meeting on November 15, 2018 through emails sent on or before November 2, 2018.

1. Resolution No. Approving Negotiation: TC-17-5-11
Address: 221 E. Riverside Drive, Estes Park, CO 80517
Landowner's Name: Richard D. Slaydon and Sandra L. Patterson-Slaydon
Current Size of Property: 3,804 s.f./0.087 acres
Proposed Size of Acquisition: AP Fee Acquisition - 3,804 s.f./0.087 acres
Purpose of Parcels Necessary for Project:
 - AP-3: 3,804 s.f./0.087 acres of fee simple acquisition for highway and related improvements \$45,700 (\$12 sf).
One 2,052 sf 2.5 Story Single Family Residence \$379,300.

Estimated Property Value, Damages and Benefits (if any): \$425,000 (rounded)

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of Bonnie D. Roerig, MAI, AI-GRS(AI), dated November 16, 2017.

Date of Initial Offer: July 18, 2018

Summary of Counteroffers: Despite continuing communication with CDOT's consultant, neither the landowner has not agreed to settle the negotiation at the offered value or provided a counteroffer to CDOT. The landowner appraisal submitted concluded \$700,000 based on the use of condominium sales as comparables rather than available single family residential sales. The use of inappropriate comparables resulted in a much higher value conclusion. CDOT is unable to proceed because there is no valid evidence to suggest that this property is worth more than the fair-market value offered. This owner is represented by Carrie Bernstein of Alderman Bernstein, who is anticipated to attend the Transportation Commission Workshop and Meeting.

2. Resolution No. Approving Negotiation: TC-17-6-12
Address: 201 E. Riverside Drive, Estes Park, CO 80517
Landowner's Name: Mary K. Culp
Current Size of Property: 4,252 s.f./0.098 acres
Proposed Size of Acquisition: AP Fee Acquisition - 4,252 s.f./0.098 acres
Purpose of Parcels Necessary for Project:
 - AP-4: 4,252 s.f./0.098 acres of fee simple acquisition for highway and related improvements \$51,000 (\$12 sf).
One 1,493 sf 1 story single family residence \$314,800.

Estimated Property Value, Damages and Benefits (if any): \$365,800 (rounded)

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of Bonnie D. Roerig, MAI, AI-GRS(AI), dated November 16, 2017.

Date of Initial Offer: July 18, 2018

Brief Summary of Counteroffers: CDOT has received two counter offers from the owner. The first counteroffer was \$159,200 over CDOT's original offer of \$365,800 and \$53,000 over the landowner's own appraised value. CDOT responded with an offer of \$415,800 to settle negotiations. Landowner's second counteroffer of \$500,000 is \$84,200 over CDOT's response, \$135,200 over CDOT's original offer, and \$28,000 over

landowner's appraised value. The landowner appraisal submitted concluded \$472,000 value based on the use of condominium sales as comparables rather than available single family residential sales. The use of inappropriate comparables resulted in a much higher value conclusion. Landowner's counteroffers have been deemed unsatisfactory to CDOT because there is no valid evidence to suggest that his property is worth \$84,200 above fair-market value. This owner is represented by Carrie Bernstein of Alderman Bernstein, who is anticipated to attend the Transportation Commission Workshop and Meeting.

3. Resolution No. Approving Negotiation: TC-17-6-12
Address: 189 E. Riverside Drive, Estes Park, CO 80517
Landowner's Name: Minglewood, LLC, a Colorado limited liability company
Current Size of Property: 4,908 s.f./0.113 acres
Proposed Size of Acquisition: AP Fee Acquisition - 4,908 s.f./0.113 acres
Purpose of Parcels Necessary for Project:
- AP-5: 4,908 s.f./0.113 acres of fee simple acquisition for highway and related improvements \$58,900 (\$12 sf).
One 1,723 sf 2 story single family residence \$511,386.
One 990 sf 1 story single residence \$79,200.
One 381 sf Mountain Munchies space \$33,528.
One 977 sf Tiki Room space \$78,160.
Mountain Munchies Canvaas Awning \$640.
Exterior Wood Stairs and Railing \$1,867.
248 sf of Deck and Railing \$4,547.
2,560 sf of Concrete Flatwork \$15,680.
128 sf (est) Brick Planter Box \$762.
100 lf of White Picket Fence \$1,808.
480 sf of Bamboo Fence \$3,840.
Indirect Costs \$164,272.

Estimated Property Value, Damages and Benefits (if any): \$950,000 (rounded)

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of Bonnie D. Roerig, MAI, AI-GRS(AI), dated March 16, 2018.

Date of Initial Offer: July 31, 2018

Brief Summary of Counteroffers: Despite continuing communication with CDOT's consultant, the landowner has not agreed to settle the negotiation at the offered value or provided a counteroffer to CDOT. Landowner has not submitted an appraisal to CDOT. CDOT is unable to proceed because there is no valid evidence to suggest that this property is worth more than the fair-market value offered. This owner is represented by Carrie Bernstein of Alderman Bernstein, who is anticipated to attend the Transportation Commission Workshop and Meeting.

Attachments
Proposed Resolution
Right-of-Way Plans

Resolution # TC-18-11-[]

R5 US 550 South Connection, FSA 5501-021 Project Code 19378

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 owned by Richard A. Carlson, J. Susan Hillmeyer, Eagle Block, Jerry T. Piccoli, Janet Maria Piccoli, James Franklin Piccoli, Steven Leo Piccoli, Donald Alex Piccoli, Rita Louise Piccoli and Gina Lee Piccoli.

Approved by the Transportation Commission on _____, 2018.

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 November 16, 2017 and January 18, 2018 the Transportation Commission entered resolutions TC-17-11-9 and TC-18-1-13 ("Resolutions") upon its minutes for the US 550 South Connection Project, Project Number FSA 5501-021 Project Code 19378 ("Project"); and

WHEREAS, the Resolutions determined that the public interest or convenience will be served by the proposed alterations to U.S. Highways No. 550 and 160, 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 Resolutions CDOT attempted to negotiate with the landowners, but negotiations with the landowners were unsuccessful; and

WHEREAS, the Property 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 Properties 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 landowner 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 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 the condemnation matter is resolved through a certificate of ascertainment and assessment, or verdict then the certificate of ascertainment and assessment, or verdict amount is subject to approval by the Transportation Commission. 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: Richard A. Carlson
Address/Location of Property: 15575 Highway 550 S, Durango, CO 81303
Parcels Required: AP-RW-7, AP-TE-7, AP-TE-7A
Estimated Property Value, Damages and Benefits (if any): \$71,600
2. Landowner Name: Richard A. Carlson
Address/Location of Property: 15575 Highway 550 S, Durango, CO 81303
Parcels Required: AP-RW-9, AP-TE-9
Estimated Property Value, Damages and Benefits (if any): \$2,600
3. Landowner Name: J. Susan Hillmeyer
Address/Location of Property: 15805 Highway 550 S, Durango, CO 81303
Parcels Required: AP-RW-11, AP-PE-11 Rev, AP-PE-11A, AP-TE-11A

Estimated Property Value, Damages and Benefits (if any): \$158,600

4. Landowner Name: Eagle Block Company
Address/Location of Property: 16073 Highway 550 S, Durango, CO 81303
Parcels Required: AP-RW-14, AP-PE-14, AP-TE-14
Estimated Property Value, Damages and Benefits (if any): \$114,000

5. Landowner Name: Jerry T. Piccoli (57.14% int), Janet Maria Piccoli (7.14% int),
James Franklin Piccoli (7.14% int), Steven Leo Piccoli (7.14% int), Donald Alex
Piccoli (7.14% int), Rita Louise Piccoli (7.15% int), Gina Lee Piccoli (7.15% int)
Address/Location of Property: 16073 Highway 550 S, Durango, CO 81303
Parcels Required: AP-RW-15, AP-15-RM, AP-PE-15 Rev, AP-PE-15A, AP-TE-15 Rev,
Estimated Property Value, Damages and Benefits (if any): \$73,500

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date




COLORADO

Department of Transportation

Office of the Chief Engineer
2829 W. Howard Place, Suite 562
Denver, CO 80204

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER 

DATE: NOVEMBER 2, 2018

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER FSA 5501-021, US 550 SOUTH CONNECTION, PROJECT CODE 19378, SEEKING APPROVAL TO INITIATE AND CONDUCT CONDEMNATION PROCEEDINGS

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes (“C.R.S.”), Section 43-1-208(1). On November 16, 2017 and January 18, 2018 the Transportation Commission entered Resolution Nos. TC-17-11-9 and TC-18-01-13 (“Resolutions”) upon its minutes, which determined that US 550 South Connection, FSA 5501-021, would serve the public interest and/or convenience of the traveling public. The Resolutions also authorized CDOT to engage in negotiations with the landowners listed below.

Unfortunately, after engaging in negotiations, CDOT and the landowners were unable to reach a resolution. As a result, CDOT seeks Transportation Commission approval to initiate and conduct condemnation proceedings pursuant to Colorado Revised Statutes, Section 38-1-101 *et seq.* for the properties listed below.

FSA 5501-021, US 550 South Connection (“Project”) is necessary to improve the US 550 and US 160 Connection. The Connection is on a new alignment to route traffic away from US 550 at Farmington Hill, it connects US 550 to US 160 at the existing Grandview interchange (a full-movement interchange replacing a signalized intersection), improving safety and mobility at the US 550/US 160 intersection, providing access to Grandview (Regional Hospital/Police), Three Springs residential development, and City of Durango. Project improvements will reduce travel times, improve access and enhance safety.

The Project is a highway re-alignment and capacity improvement project, which is part of CDOT’s long-range planning effort to enhance safety and mobility for the entire area of southwest Colorado. Since US 160 and US 550 were identified as strategic highway corridors in the Strategic Transportation Project Investment Program 19 years ago, there has been continued support for the needed improvements to these corridors at the state and local level. The US Highway 550 South Connection to US 160 Record of Decision was signed April 2015 (and supplements information contained in the US Highway 160 from Durango to Bayfield

Environmental Impact Statement and Final Section 4(f) Evaluation signed by FHWA in May 2006). The project was recently awarded a \$12.3 million grant.

Overview of Properties Previously Approved for Negotiation

Generally, there are eighteen fee simple acquisitions, nine (9) permanent easements, three (3) slope easements, five (5) uneconomic remnants, twenty (20) temporary easements and ten (10) access control lines necessary for the completion of the Project. Most of these were authorized at the November 16, 2017 Transportation Commission meeting. There have been some subsequent parcel authorizations by the TC and some administrative revisions since authorization of most of the parcels for this project in November 2017.

CDOT met with landowners in person and on-site (driveway meetings) in advance of requesting ROW plan authorization at the November Transportation Commission Meeting to review the proposed ROW plans and to address landowner concerns regarding the proposed acquisitions in advance of submitting the ROW plans to the Transportation Commission. The landowners were advised of the Transportation Commission process at each of these driveway meetings.

CDOT is requesting authorization to initiate and conduct condemnation proceedings for five (5) fee simple acquisitions, one (1) uneconomic remnant, six (6) temporary easements, and five (5) permanent easements. The property owners will be informed of the Transportation Commission meeting by November 5, 2018 through a letter and email correspondence.

1. Resolution No. Approving Negotiation: TC-17-11-9
Address: 15575 Highway 550 S, Durango, CO 81303
Landowner's Name: Richard A. Carlson
Current Size of Property: 3.39 acres
Proposed Size of Acquisition: 64,803 sq.ft./1.488 acres
Purpose of Parcels Necessary for Project:
 - AP-RW-7: 48,910 sq.ft. (1.123 acres); \$67,737 Fee simple acquisition for construction and maintenance of highway improvements associated with widening SH 550 including new traveling lanes and drainage, utility and irrigation facilities as well as construction and maintenance of a frontage road. Valuation includes gate and gravel road improvements.
 - AP-TE-7: 3,146 sq.f.t (0.072 acres); \$3,223 Temporary easement for construction of associated highway improvements, including grading and driveway reconstruction, for a period of two years.
 - AP-TE-7A: 12,747 sq.ft. (0.293 acres); \$792 Temporary easement for construction of associated highway improvements, including irrigation improvements, for a period of two years.Estimated Property Value, Damages and Benefits (if any): \$71,600
Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of Pat McManus, dated August 30, 2018.
Date of Initial Offer: 4/16/2018
Brief Summary of Counteroffers: Landowners appraisal concluded at \$108,000. The landowner countered at this amount. CDOT is unable to accept the counter offer. The appraisal was not accepted. CDOT will continue to work with the landowner to

try to reach a settlement agreement. Due to the project timeline, CDOT is requesting authorization for condemnation proceedings should condemnation become necessary.

2. Resolution No. Approving Negotiation: TC-17-11-9
Address: 15575 Highway 550 S, Durango, CO 81303
Landowner's Name: Richard A. Carlson
Current Size of Property: 3.00 acres
Proposed Size of Acquisition: 3,655 sq.ft./0.084 acres
Purpose of Parcels Necessary for Project:
- AP-RW-9: 1,591 sq.ft. (0.037 acres); \$2,035. Fee simple acquisition for construction and maintenance of highway improvements associated with widening SH550 including new traveling lanes and drainage, utility and irrigation facilities as well as construction and maintenance of a frontage road.
 - AP-TE-9: 2,064 sq.ft. (0.047 acres); \$517. Temporary easement for construction of associated highway improvements, including driveway reconstruction, for a period of two years.

Estimated Property Value, Damages and Benefits (if any): \$2,600

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. Value was based on a waiver valuation completed by David Eckelberry dated 9/6/2018.

Date of Initial Offer: 4/26/2018

Brief Summary of Counteroffers: See summary for Parcel series 7 above.

3. Resolution No. Approving Negotiation: TC-17-11-9
Address: 15805 Highway 550 S, Durango, CO 81303
Landowner's Name: J. Susan Hillmeyer
Current Size of Property: 4.080 acres
Proposed Size of Acquisition: 118,545 sq.ft./2.722 acres
Purpose of Parcels Necessary for Project:
- AP-RW-11: 108,028 sq.ft. (2.480 acres); \$149,907. Fee simple acquisition for construction and maintenance of highway improvements associated with widening US 550 including new travel lanes, a retaining wall and drainage, utility and irrigation facilities, including a water quality pond as well as construction and maintenance of a frontage road. Improvements and compensable damages include a shed, driveway, utilities and septic system.
 - AP-PE-11REV: 8,602 sq.ft. (0.198 acres); \$7,663. Permanent easement for construction, use and maintenance of associated highway improvements including drainage improvements.
 - AP-PE-11A: 928 sq.ft. (0.021 acres); \$813. Permanent easement for construction, use and maintenance of associated highway improvements including ingress and egress to Tract A of the Hillmeyer and Vance Subdivision, No. 444.
 - AP-TE-11A: 987 sq.ft. (0.023 acres); \$188. Temporary easement for construction of associated highway improvements, including construction of a retaining wall and driveway reconstruction, for a period of two years.

Estimated Property Value, Damages and Benefits (if any): \$158,600

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of David Eckelberry on May 29, 2018.

Date of Initial Offer: 6/29/2018

Brief Summary of Counteroffers: Landowner intends to submit a counter offer but CDOT has not received a counter offer to date. CDOT will continue to work with the landowner to try to reach a settlement agreement. Due to the project timeline, CDOT is requesting authorization for condemnation proceedings should condemnation become necessary.

4. Resolution No. Approving Negotiation: TC-17-11-9
Address: 16073 Highway 550 S, Durango, CO 81303
Landowner's Name: Eagle Block Company, a Colorado Corp.
Current Size of Property: 1.708 acres
Proposed Size of Acquisition: 57,590 sq.ft./1.322 acres
Purpose of Parcels Necessary for Project:
- AP-RW-14: 47,604 sq.ft. (1.093 acres); \$110,011. Fee simple acquisition for construction and maintenance of highway improvements associated with widening US 550 including new travel lanes, a retaining wall and drainage, utility and irrigation facilities as well as construction and maintenance of a frontage road. Improvements and compensable damages include barn, retaining wall and septic system.
 - AP-PE-14: 1,235 sq.ft. (0.028 acres); \$1,540. Permanent easement for construction, use and maintenance of associated highway improvements including ingress and egress to Tract B of the Hillmeyer and Vance Subdivision, No. 444.
 - AP-TE-14: 8,751 sq.ft. (0.201 acres); \$2,334. Temporary easement for construction of associated highway improvements, including removal of a barn and driveway reconstruction, for a period of two years.

Estimated Property Value, Damages and Benefits (if any): \$114,000

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of David Eckelberry, dated June 5, 2018.

Date of Initial Offer: 6/29/2018

Brief Summary of Counteroffers: Landowner has verbally agreed to CDOT's offer, however, CDOT has not received a signed agreement to date. CDOT will continue to work with the landowner to reach an agreement. Due to the project timeline, CDOT is requesting authorization for condemnation proceedings should condemnation become necessary.

5. Resolution No. Approving Negotiation: TC-17-11-9 and TC-18-01-13
Address: 16073 Highway 550 S, Durango, CO 81303
Landowner's Name: Jerry T. Piccoli (undivided 57.14% interest), Janet Maria Piccoli (undivided 7.14% interest), James Franklin Piccoli (undivided 7.14% interest), Steven Leo Piccoli (undivided 7.14% interest), Donald Alex Piccoli (undivided 7.14% interest), Rita Louise Piccoli (undivided 7.15% interest), Gina Lee Piccoli (undivided 7.15% interest) as tenants in common

Current Size of Property: 38.29 acres

Proposed Size of Acquisition: 245,068 sq.ft./5.626 acres

Purpose of Parcels Necessary for Project:

- AP-RW-15: 92,583 sq.ft. (2.125 acres); \$52,289. Fee simple acquisition for construction and maintenance of highway improvements associated with widening and realigning US 550 including new travel lanes, a retaining wall

and drainage, utility and irrigation facilities. Improvements include fencing and landscape.

- AP-15-RM: 22,357 sq.ft. (0.513 acres); \$10,298. Uneconomic remnant.
- AP-PE-15REV: 1,378 sq.ft. (0.032 acres); \$578. Permanent easement for construction, use and maintenance of associated highway improvements including irrigation improvements.
- AP-PE-15A: 1,918 sq.ft. (0.044 acres); \$795. Permanent easement for construction, use and maintenance of associated highway improvements including use and maintenance of drainage improvements.
- AP-TE- 15REV: 126,832 sq.ft. (2.912 acres); \$9,463. Temporary easement for construction of associated highway improvements, including grading, drainage improvements, irrigation improvements, roadway removal and driveway reconstruction, for a period of two years.

Estimated Property Value, Damages and Benefits (if any): \$73,500

Method to Determine Property Value, Damages and Benefits (if any): Value was based on appraisal of David Eckelberry, dated April 30, 2018.

Date of Initial Offer: 6/7/2018

Brief Summary of Counteroffers: Landowner made a counter offer that CDOT has indicated will be accepted up receipt of the signed Memorandum of Agreement. CDOT will continue to work with the landowner to reach an agreement. Due to the project timeline, CDOT is requesting authorization for condemnation proceedings should condemnation become necessary.

Attachments

**Proposed Resolution
Right-of-Way Plans**

Resolution # TC-18-11-[]

R5 US 160 Passing Lanes North of Towaoc, NHPP 1601-073, Project Code 20325

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 owned by Jeffrey D. and Tammy E. Coulon FKA Nancy Nard.

Approved by the Transportation Commission on _____, 2018.

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 January 19, 2017 the Transportation Commission entered resolutions TC-17-1-21 ("Resolution") upon its minutes for the R5 US 160 Passing Lanes North of Towaoc, NHPP 1601-073, Project Code 20325 ("Project"); and

WHEREAS, the Resolutions determined that the public interest or convenience will be served by the proposed alterations to U.S. Highway No. 160, 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 Resolutions CDOT attempted to negotiate with the landowners, but negotiations with the landowners were unsuccessful; and

WHEREAS, the Property 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 Properties 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 landowner 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 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 the condemnation matter is resolved through a certificate of ascertainment and assessment, or verdict then the certificate of ascertainment and assessment, or verdict amount is subject to approval by the Transportation Commission. 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: Jeffrey D. Coulon and Tammy E. Coulon FKA Nancy Nard
Address of Property: 2161 Highway 160-491, Cortez, CO 81321
Parcels Required: RW-11, TE-11
Estimated Property Value, Damages and Benefits (if any): \$4,992

Herman Stockinger, Secretary
Transportation Commission of Colorado


Date



COLORADO
Department of Transportation
Office of the Chief Engineer
2829 W. Howard Place, Suite 562
Denver, CO 80204

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER 

DATE: NOVEMBER 2, 2018

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER NHPP 1601-073, U.S. 160 PASSING LANE NORTH OF TOWAOC, 20325, SEEKING APPROVAL TO INITIATE AND CONDUCT CONDEMNATION PROCEEDINGS

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes (“C.R.S.”), Section 43-1-208(1). On January 19, 2017, the Transportation Commission entered Resolution No. TC-17-1-21 (“Resolution”) upon its minutes, which determined that U.S. 160 Passing Lane North of Towaoc, NHPP 1601-073, would serve the public interest and/or convenience of the traveling public. The Resolution also authorized CDOT to engage in negotiations with the landowners listed below.

Unfortunately, after engaging in negotiations, CDOT and the landowners were unable to reach a resolution. As a result, CDOT seeks Transportation Commission approval to initiate and conduct condemnation proceedings pursuant to Colorado Revised Statutes, Section 38-1-101 *et seq.* for the properties listed below.

US 160 Passing Lane North of Towaoc (“Project”) is necessary for construction of a northbound and southbound passing lane between Towaoc and Cortez. This will improve safety and is therefore desirable. This is an alternating passing lane project and was identified as a Regional Priority Project in the Southwest Regional Transportation Plan in 2008 and has been in the CDOT Statewide Transportation Improvement Plan (STIP) since 2012. I have determined that it is necessary to widen this portion of State Highway 160 to provide increased safety for the traveling public.

Overview of Properties Previously Approved for Negotiation

There are twenty temporary easements, two permanent easements and eight fee simple acquisitions that were previously approved for negotiation. Most of these parcels were authorized at the January 2017 Transportation Commission meeting. There have been some subsequent administrative revisions since authorization.

CDOT is seeking approval to initiate and conduct condemnation proceedings for one (1) fee simple acquisition and one (1) temporary easement. The property owner will be informed of the Transportation Commission meeting by letter no later than November 5, 2018.

1. Resolution No. Approving Negotiation: TC-17-1-121
Address: 2161 Highway 160-491, Cortez, CO 81321
Landowner's Name: Jeffrey D. and Tammy E. Coulon (formerly Nancy Nard)
Current Size of Property: 27.710 acres
Proposed Size of Acquisition: 0.202 acres
Purpose of Parcels Necessary for Project:
 - RW-11: 4,218 sq.ft. (0.097 acres); \$550. Fee simple acquisition for construction and maintenance of highway improvements. Irrigation improvements are calculated at an additional \$4,145.
 - TE-11: 4,567 sq.ft. (0.105 acres); \$297. Temporary easement for construction of associated highway improvements, for a period of one year.Estimated Property Value, Damages and Benefits (if any): \$4,992
Method to Determine Property Value, Damages and Benefits (if any): Value was based on a revised waiver valuation by David Eckelberry dated October 22, 2018.
Date of Initial Offer: 8/2/2018

Summary of Counteroffers: Landowner is in the process of assembling a counter offer. The project is scheduled for advertisement in February to avoid loss of project funding. CDOT will continue to work with the landowner to attempt to reach a settlement agreement but is requesting authorization of condemnation proceedings in the event that a settlement agreement cannot be timely reached.

Attachments
Proposed Resolution
Right-of-Way Plans