

Resolution # TC-16-5-[]

R3 US 6 and I-70B, Project Number NH 0701-198, Project Code 17302

Authorizing the Chief Engineer to either negotiate and tender damages to 1st & North Plaza, LLC, or 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 _____, 2016.

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, the Transportation Commission is authorized pursuant to Section 43-1-208(2), C.R.S. to determine whether a proposed change to a state highway will serve the interest or convenience of the public; and

WHEREAS, the Transportation Commission may enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer to either tender landowners the amount of damages, as estimated by the Chief Engineer or authorize condemnation without tender to the landowner; and

WHEREAS, CDOT seeks to acquire necessary Property for US 6 and I-70B, Project Number NH 0701-198, Project Code 17302 Project (“Project”); and

WHEREAS, CDOT may negotiate with 1st & North Plaza, LLC; and

WHEREAS, the property owned by 1st & North Plaza, LLC, is located at 1119 North 1st Street in Grand Junction, Colorado (“Property”), which is within the Project boundaries; and

WHEREAS, CDOT seeks to acquire from the Property a Permanent Easement containing 435 square feet, more or less, for the installation and maintenance of curbing, landscape gravel and the establishment of a clear zone for fire hydrant access, and a Temporary Easement containing 2,214 square feet, more or less, for the purpose of closing an access, for I-70B and necessary for the Project; and

WHEREAS, the Property 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, 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 Property; and

WHEREAS, after reviewing the Chief Engineer’s written report regarding the Project and the Property, the Transportation Commission has determined that the proposed changes to US 6 and I-70B will serve the public interest and convenience of the traveling public and that acquisition of the Property described in the report is necessary and in the public interest; 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 convenience will be served by the proposed changes to State Highway US 6 and I-70B by virtue of US 6 and I-70B, Project Number NH 0701-198, Project Code 17302, parcels PE-48 and TE-48 rev., and authorizes the CDOT staff either to negotiate and tender the Owner of the Property the amount of estimated damages or CDOT may initiate and conduct condemnation proceedings for the Property. CDOT is authorized to increase or decrease the size of its acquisition based on sound engineering principals and determinations, subject to approval by the Transportation Commission upon conclusion of the acquisition. Further, if a settlement amount, certificate of ascertainment

and assessment, or verdict is reached with respect to the amount of just compensation due to the landowner, the final settlement, 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 if necessary.

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 

DATE: November 1, 2016

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER NH 0701-198, US 6 & I-70B, Rimrock Avenue to 3rd Street.

Background

This written report to the Transportation Commission is pursuant to Colorado Revised Statutes ("C.R.S."), Section 43-1-208(1) (statute attached with this memorandum). I deem it desirable to improve portions of I-70B between mile post 3.95 and mile post 5.25, including the interchange of I-70B and US 6 (a.k.a. North Avenue).

The US 6 and I-70B Project, Rimrock Avenue to 3rd Street ("Project"), is necessary to preserve and extend the service life of the existing pavement and structures, to improve highway drainage, and to install sidewalks, lighting, and safety upgrades. This will improve highway surface conditions, provide safe and efficient traffic flow and pedestrian mobility on US 6 and I-70B, and is therefore, desirable. I hereby request that the Transportation Commission determine that the proposed changes of the Project serve the public interest and/or convenience of the traveling public.

The property interests required are located at 1119 North 1st Street in Grand Junction, Mesa County, Colorado.

If the Transportation Commission determines that the proposed changes will serve the public 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 either make tender or to initiate and conduct condemnation proceedings for the Property.

Description of Portion of Highway to be Changed and Proposed Changes

The Project will construct new surfacing, drainage facilities, sidewalks, lighting and safety upgrades. The Project is a highway improvement and pedestrian upgrade project. The right-of-way required for this Project was initially approved by the Transportation Commission for the I-70B Corridor by a budget action on March 19, 2009. I have determined that it is necessary to improve the safety and operations of US 6 and I-70B and provide increased safety

for the traveling public and pedestrians. Installing improvements to this portion of US 6 and I-70B will improve highway surface conditions, provide safe and efficient traffic flow, and improve pedestrian mobility on US 6 and I-70B.

Description of the Property Interests Needed for Project

There are two (2) Property interests from one (1) ownership 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.

1. Address: 1119 North 1st Street, Grand Junction, CO 81505
Landowner's Name: 1st & North Plaza, LLC
Current Size of Property: 1.52 acres / 66,353 sq. ft.
Proposed Size of Acquisition: PE-48 = 435 sq. ft.; TE-48Rev = 2,214 sq.ft.
Purpose of Parcels Necessary for Project:
 - PE-48: The purpose of this Permanent Easement is for the installation and maintenance of curbing, landscape gravel, and the establishment of a clear zone for fire hydrant access.
 - TE-48Rev: The purpose of this Temporary Easement is to perform work for closing an access. The required duration of use for this Temporary Easement is six (6) months beginning upon commencement of construction.

Estimate of Damages and Benefits

The Cost Estimate approved by me on October 27, 2016, 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. If applicable, the Cost Estimate also describes whether the Properties accrue any benefits because of the Project. 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 following list describes how the value of each property was determined.

1. Address: 1119 North 1st Street, Grand Junction, CO 81505
Landowner's Name: 1st & North Plaza, LLC
Name of Person who Determined Property Value: Tim Woodmansee
Property Value Determined by: Value was based on comparable sales of similar properties near the location of the property.

The estimates provided are for budgetary purposes only, and are subject to change. I anticipate that these figures 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. CDOT will re-submit the final settlement, ascertainment or verdict for commission approval.

Attachments
§43-1-208, C.R.S.
Legal Descriptions of Parcels
Right-of-Way Plans
Chief Engineer's Cost Estimate
Proposed Resolution

EXHIBIT "A"

PROJECT NUMBER: NH 0701-198
PERMANENT EASEMENT NUMBER: PE-48
PROJECT CODE: 17302
DATE: July 20, 2016
DESCRIPTION

A Permanent Easement No. PE-48 of the Department of Transportation, State of Colorado Project No. NH 0701-198 containing 435 sq. ft. (0.010 acres), more or less, being a portion of Parcel 1 and Parcel 2 described at Reception No. 2494638, recorded June 23, 2009, in the Mesa County Clerk and Recorder's Office located in the Southeast Quarter of Section 10, Township 1 South, Range 1 West, of the Ute Principal Meridian, in Mesa County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the Southeast Corner of said Section 10 being a 3 1/4" Aluminum Cap stamped "THOMPSON LANGFORD CORP T1S R1W S10 S11 S15 S14 2000 PLS 18480", whence the South Sixteenth Corner common to said Section 10 and Section 11 of said township and range, being a 3" Brass Cap, stamped "COUNTY SURVEY MARKER" bears, N. 00°15'54" W., a distance of 1,311.05 feet (basis of bearing – assumed);

Thence N. 62°44'32" W., a distance of 219.88 feet to the northerly Right of Way line of U.S. Highway No. 6 as depicted on the Colorado Department of Transportation Project FAP 001-1(12) and the POINT OF BEGINNING;

1. Thence N. 00°15'54" W., a distance of 29.00 feet;
2. Thence S. 89°47'35" E., a distance of 15.00 feet, to a easterly line of said Parcel 1;
3. Thence S. 00°15'54" E., coincident with said easterly line of Parcel 1 a distance of 29.00 feet,
4. Thence N. 89°47'35" W., coincident with said northerly Right of Way, a distance of 15.00 feet, more or less, to the POINT OF BEGINNING.

The above described Permanent Easement contains 435 sq. ft. (0.010 acres), more or less.

The purpose of the above-described Permanent Easement is for the for installation and maintenance of curbing, landscape gravel and the establishment of a clear zone for fire hydrant access.

Marla M. McCombs
7-21
Marla M. McCombs
Colorado Professional Land Surveyor No. 24961
For and on Behalf of JACOBS Engineering Group Inc.
707 17th Street, Suite 3400
Denver, CO 80202

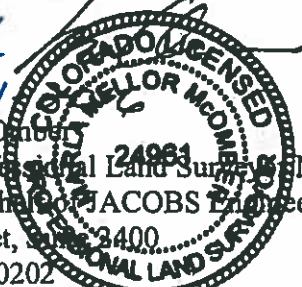


EXHIBIT "A"

PROJECT NUMBER: NH 0701-198
TEMPORARY EASEMENT NUMBER: TE-48Rev
PROJECT CODE: 17302
DATE: July 20, 2016
DESCRIPTION

A Temporary Easement No. TE-48Rev of the Department of Transportation, State of Colorado Project No. NH 0701-198 containing 2,214 sq. ft. (0.051 acres), more or less, being a portion of Parcel 1 and Parcel 2 described at Reception No. 2494638, recorded June 23, 2009, in the Mesa County Clerk and Recorder's Office located in the Southeast Quarter of Section 10, Township 1 South, Range 1 West, of the Ute Principal Meridian, in Mesa County, Colorado, said tract or parcel being more particularly described as follows:


Commencing at the Southeast Corner of said Section 10 being a 3 1/4" Aluminum Cap stamped "THOMPSON LANGFORD CORP T1S R1W S10 S11 S15 S14 2000 PLS 18480", whence the South Sixteenth Corner common to said Section 10 and Section 11 of said township and range, being a 3" Brass Cap, stamped "COUNTY SURVEY MARKER" bears, N. 00°15'54" W., a distance of 1,311.05 feet (basis of bearing – assumed);

Thence N. 62°44'32" W., a distance of 219.88 feet to the northerly Right of Way line of U.S. Highway No. 6 as depicted on the Colorado Department of Transportation Project FAP 001-1(12) and the POINT OF BEGINNING;

1. Thence N. 89°47'35" W., coincident with said northerly Right of Way, a distance of 76.45 feet;
2. Thence N. 00°12'25" E., a distance of 29.00 feet;
3. Thence S. 89°47'35" E., a distance of 76.21 feet;
4. Thence S. 00°15'54" E., a distance of 29.00 feet more or less, to the POINT OF BEGINNING.

The above described Temporary Easement contains 2,214 sq. ft. (0.051 acres), more or less.

The purpose of the above-described Temporary Easement is for the closure of access.


Marla M. Johnson
Colorado Professional Land Surveyor No. 24961
For and on behalf of CBS Engineering Group Inc.
707 17th Street, Suite 2400
Denver, CO 80202



Colorado Department of Transportation
 222 South 6th Street
 Room 317
 Grand Junction, CO 81501
 Phone: 970-683-6234 FAX: 970-683-6249
 Region 3 LED

Sheet Revisions			Sheet Revisions			Sheet Revisions		
Date	Description	By	Date	Description	By	Date	Description	By

JACOBS
 1707 17th Street, Suite 2400
 Denver, Colorado 80202
 Phone: 303-628-6240
 Fax: 303-628-6296

Right of Way Exhibit			
Exhibit Plan			
Project Number: NH 0701-198			
Project Location: I-70B Rimrock Ave. to 3rd St			
I-70B (MP 3.95 to MP 5.25)			
Project Code	Last Mod. Date	Sheet No.	Sheet Qty.
17302	05-25-08	101 of 101	101

DEPARTMENT OF TRANSPORTATION STATE OF COLORADO RIGHT OF WAY PLANS OF PROPOSED FEDERAL AID PROJECT NO. NH 0701-198 STATE HIGHWAY NO. U.S. 6 & I-70 B MESA COUNTY

This Right-of-Way Plan Sheet is an addition to the plan set prepared for the Colorado Department of Transportation for Project Number: NH 0701-198, Project Location: I-70B Rimrock Ave. to 3rd St (MP 3.95 to MP 5.25), Project Code: 17302, prepared by JACOBS, signed on 7/22/2014 and deposited at Mesa County on 8/14/2014.

Horizontal Datum:
 Coordinate data shown herein is based upon the Mesa County LCS (Local Coordinate System) zone "QVALCS" being a Transverse Mercator coordinate projection where as the point of origin (450,000/E 100,000) and central meridian being the SMS point SMO1 and QLOS (initial point - UTE Meridian).
 The geodetic coordinates of said SMS point SMO1 being lat. 39° 06' 22.72756"N & long. 108° 32' 01.43463"W.
 The scale factor being 1.0002181798 for said coordinate projection.

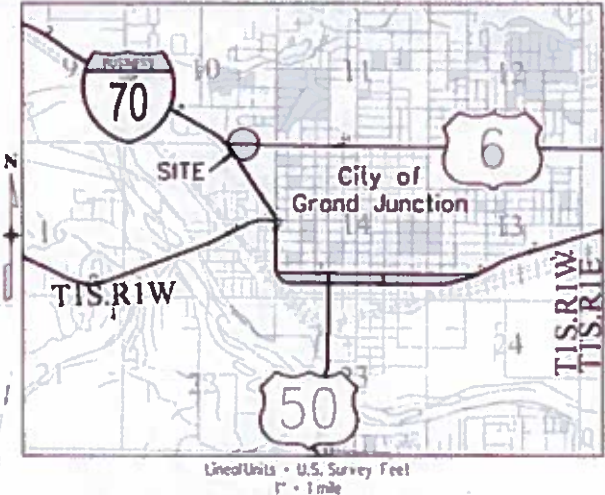
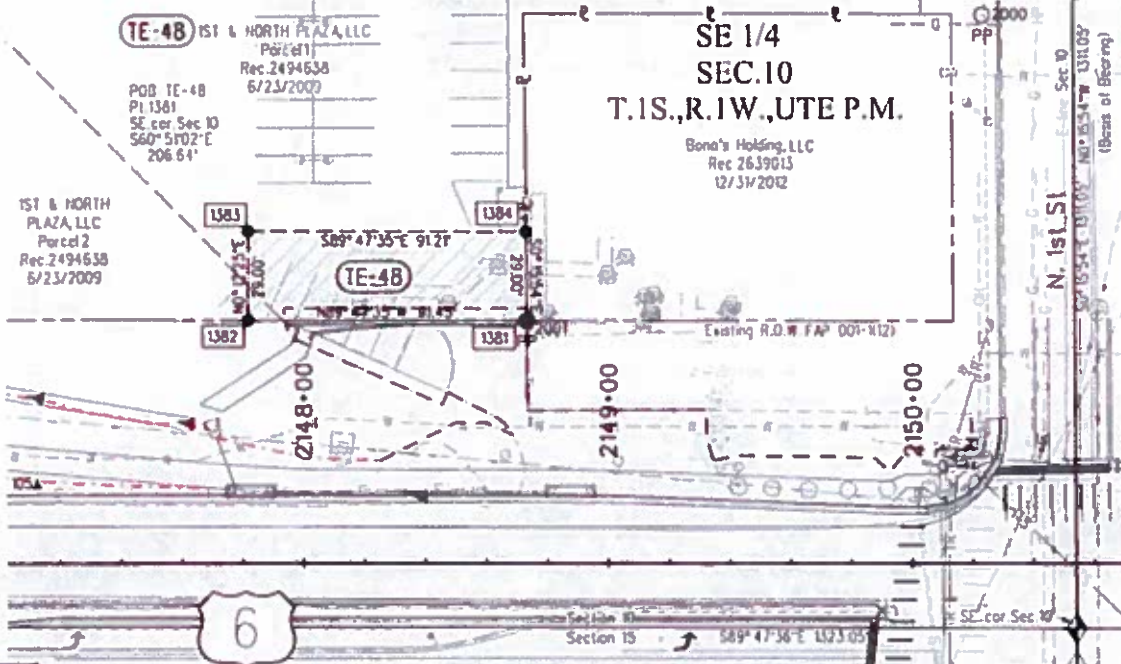
Basis of Bearings:
 Bearings are based on the E. Line of Section 10, Township 1 South, Range 1 West, of the Ute P.M., monumented by a 3/4" Aluminum Cap stamped "THOMPSON LANGFORD CORP T15 R1W S10 S11 S14 S15 2000 PLS 18480" at the SE Corner of Section 10 and a 3" Brass Cap, stamped "COUNTY SURVEY MARKER" at the S. One-Sixteenth Corner of said Section 10, bearing N0° 15' 54" W.

1. This Right-of-Way Plan is not a boundary survey of the adjoining property and is prepared for the Colorado Department of Transportation purposes only.

2. For title information, The Colorado Department of Transportation refers to (Title Policy), (Title Commitments), Memorandums of Ownership prepared by Title Co. or individual for (Title Insurance Co. or consultant).

3. This plan set is subject to change and may not be the most current set. It is the user's responsibility to verify with CDOT that this set is the most current. The information contained on the attached drawing is not valid unless the copy bears an original signature of the Professional Land Surveyor herein named.

NOTICE: According to Colorado law you must commence any legislation based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.



TABULATION OF TEMPORARY EASEMENT			
Point No.	Northing (ft)	Easting (ft)	Description
1381	58578.902	88274.829	TE-4B
1382	58578.232	88183.381	TE-4B
1383	58608.232	88183.488	TE-4B
1384	58604.902	88274.893	TE-4B

PROJECT COORDINATE TABLE			
Point No.	Northing (ft)	Easting (ft)	Description
108	58558.893	88721.463	2" ALUM CAP "JACOBS ENGINEERING 108"
109	58431.353	88382.174	2" ALUM CAP "JACOBS ENGINEERING 109"

FOUND BOUNDARY MONUMENT COORDINATE TABLE			
Point No.	Northing (ft)	Easting (ft)	Description
2000	58678.234	88434.748	84 Rebar
2001	58678.902	88274.840	2.5" Alum Cap, 84 Rebar "Q.E.D. Surveying LS 10413"
2002	58625.443	88588.312	BRPC PLS 34843

FOUND ALIQUOT MONUMENT COORDINATE TABLE			
Point No.	Northing (ft)	Easting (ft)	Description
4172	58478.250	88458.297	3.25" AC "THOMPSON LANGFORD CORP S10 S11 S14 S15 2000"
4175	40788.288	89448.231	3" BC "COUNTY SURVEY MARKER"

R.O.W. TABULATION OF PROPERTIES IN MESA COUNTY U.S. NO. 6										
Parcel No.	Ownership Name and Mailing Address	Site Address	Location	Area In Square Feet (Acres)				Book and Page No. And/Or Reception No.	RTTS Title Commitment No.	Remarks
				AREA OF Parcel	ADJACENT ROW	Net Area	PERMITS Left			
TE-4B	1ST & NORTH PLAZA LLC 785 1/2 JOSELYN CT GRAND JUNCTION, CO 81508	1118 N 1ST ST	SE 1/4 Sec. 10 T. 1S., R. 1W., UTE P.M.	2649	N/A	2649	N/A	N/A		reestablishment of parking & installation of curb & gutter

COLORADO DEPARTMENT OF TRANSPORTATION
 FEDERAL AID HIGHWAY PROJECT
 804 P.L.S. AUTHORIZED
Chris Piles
 CDOT ROW PROGRAM MANAGER
 DATE: 4-26-16

SURVEYOR STATEMENT (ROW PLAN)
 I, Chris Piles, a professional land surveyor licensed in the State of Colorado, do hereby state to the Colorado Department of Transportation that based upon my knowledge, information and belief, research, calculations and evaluation of the survey evidence were performed and this Right-of-Way Plan was prepared under my responsible charge in accordance with applicable standards of practice defined by Colorado Department of Transportation publications. This statement is not a guaranty or warranty, either expressed or implied.
 PLS No. 24961

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