

Resolution # TC-16-5-[]

R5 U.S. 550: Kirby Lane to CR 214, NH 5501-016, Project Code 16792

Approving the property acquisitions and settlement amounts, which have been agreed to or ordered for the property 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 April 24, 1994 the Transportation Commission adopted Resolution TC-271 (“TC-271”), which directed the “Executive Director of the Department of Transportation, or his delgatee, to handle on its behalf consistent with State and Federal Laws, both the approval for land acquisition actions and the tendering of payment to landowners for damages in connection with previously approved highway projects;” and

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, subsequent to the *Amerco* opinion, the Chief Engineer and or CDOT staff began negotiations for acquisition of certain parcels of land without Transportation Commission approval; and

WHEREAS, CDOT staff, without initiating or conducting condemnation proceedings, successfully reached an agreement with the landowners listed below; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve and ratify all negotiation actions taken by CDOT that occurred without Transportation Commission approval in relation to the below acquisitions and must approve the actual size of the acquisition and must approve the final settlement amount; 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 or Appraised Value	Approved Size of Acquisition	Actual Size of Acquisition	Settlement, Amount
Part of Lot 2 in Shortville Subdivision La Plata County (Parcel 16) Owner: Todd Risberg	\$27,130.00	15,241 SF	15,241 SF	\$27,130.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby declares that the public interest or convenience will be served by the proposed changes to U.S. Highway No. 550 by virtue of the U.S. 550: Kirby Lane to CR 214 Project, Project Number NH 5501-016, Project Code 16792. All approvals or other negotiation actions taken by CDOT with respect to the above listed acquisitions after September 26, 2016, are hereby affirmed, ratified, and made effective as officially sanctioned actions of the Transportation Commission. Since the Property listed above involve voluntary settlements between CDOT and the landowners, the Transportation Commission determines that tender to the landowners or condemnation of the Property is unnecessary. 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 for the agreed-upon amounts. The Transportation Commission hereby approves the acquisition of the parcel, approves the actual size of the acquisition, and the settlement amount listed above.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Resolution # TC-16-5-[]

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

Approving the Settlement, Certificate of Ascertainment or Verdict amounts, which have been agreed to or ordered for the properties specified below.

Approved by the Transportation Commission on _____, 2017.

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, the Transportation Commission previously found that the public interest and convenience would be served by the alteration of a State highway, and the acquisition of the properties listed below; and

WHEREAS, the Transportation Commission did enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer either negotiate with the landowners the amount of damages, as estimated by the Chief Engineer or if the Transportation Commission previously approved CDOT to negotiate with the landowners and negotiations failed, the Transportation Commission entered a separate resolution upon its minutes authorizing CDOT to condemn the properties pursuant to Sections 38-1-101 *et seq*, C.R.S.; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve the final settlement, ascertainment, or verdict amount; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through either a settlement or the entry of a certificate of ascertainment or verdict;

Property Location	Resolution No. Authorizing Acquisition and/or Condemnation	Approved Chief Engineer's Estimate of Damages and Benefits	Approved and Actual Size of Acquisition	Settlement, Ascertainment or Verdict Amount
Intersection of North Ave. and 1 st St, Grand Junction, Mesa County (PE-48, TE-48Rev) Owner: 1 st & North Plaza, LLC	TC-16-11-26	\$2020.00	2649 SF	\$3,000.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the actual size of the acquisition and the settlement, ascertainment, or verdict amount listed above.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Resolution # TC-16-5-[]

R4 PR Scour Bridge Repairs #6, Project Code ER R400-326, Project Code 20243

Approving the Settlement, Certificate of Ascertainment or Verdict amounts, which have been agreed to or ordered for the properties specified below.

Approved by the Transportation Commission on _____, 2017.

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, the Transportation Commission previously found that the public interest and convenience would be served by the alteration of a State highway, and the acquisition of the properties listed below; and

WHEREAS, the Transportation Commission did enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer either negotiate with the landowners the amount of damages, as estimated by the Chief Engineer or if the Transportation Commission previously approved CDOT to negotiate with the landowners and negotiations failed, the Transportation Commission entered a separate resolution upon its minutes authorizing CDOT to condemn the properties pursuant to Sections 38-1-101 *et seq.*, C.R.S.; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve the final settlement, ascertainment, or verdict amount; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through either a settlement or the entry of a certificate of ascertainment or verdict;

Property Location	Resolution No. Authorizing Acquisition and/or Condemnation	Approved Chief Engineer's Estimate of Damages and Benefits	Approved and Actual Size of Acquisition	Settlement, Ascertainment or Verdict Amount
12271 Mineral Road, Longmont, 80501 (Parcels PE-1, PE-1A) Owner: Clyde and Jan Canino	TC-16-11-13	\$9,750.00	34,826 SF	\$9600.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the actual size of the acquisition and the settlement, ascertainment, or verdict amount listed above.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Resolution # TC-16-5-[]

R3 SH 65 Mesa North, STR 065A-022, Project Code 20703

Approving the Settlement, Certificate of Ascertainment or Verdict amounts, which have been agreed to or ordered for the properties specified below.

Approved by the Transportation Commission on _____, 2017.

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, the Transportation Commission previously found that the public interest and convenience would be served by the alteration of a State highway, and the acquisition of the properties listed below; and

WHEREAS, the Transportation Commission did enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer either negotiate with the landowners the amount of damages, as estimated by the Chief Engineer or if the Transportation Commission previously approved CDOT to negotiate with the landowners and negotiations failed, the Transportation Commission entered a separate resolution upon its minutes authorizing CDOT to condemn the properties pursuant to Sections 38-1-101 *et seq*, C.R.S.; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve the final settlement, ascertainment, or verdict amount; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through either a settlement or the entry of a certificate of ascertainment or verdict;

Property Location	Resolution No. Authorizing Acquisition and/or Condemnation	Approved Chief Engineer's Estimate of Damages and Benefits	Approved and Actual Size of Acquisition	Settlement, Ascertainment or Verdict Amount
11011 Highway 65 Mesa, CO 81643 (PE-102, TE-102) Owner: Mesa Creek, Inc.	TC-16-11-21	\$4150.00	1490.81 SF	\$13646.79

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the actual size of the acquisition and the settlement, ascertainment, or verdict amount listed above.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Resolution # TC-16-5-[]

R2 Trinidad Critical Culvert, IM 025A-039, Project Code 21323

Approving the Settlement, Certificate of Ascertainment or Verdict amounts, which have been agreed to or ordered for the properties specified below.

Approved by the Transportation Commission on _____, 2017.

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, the Transportation Commission previously found that the public interest and convenience would be served by the alteration of a State highway, and the acquisition of the properties listed below; and

WHEREAS, the Transportation Commission did enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer either negotiate with the landowners the amount of damages, as estimated by the Chief Engineer or if the Transportation Commission previously approved CDOT to negotiate with the landowners and negotiations failed, the Transportation Commission entered a separate resolution upon its minutes authorizing CDOT to condemn the properties pursuant to Sections 38-1-101 *et seq.*, C.R.S.; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve the final settlement, ascertainment, or verdict amount; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through either a settlement or the entry of a certificate of ascertainment or verdict;

Property Location	Resolution No. Authorizing Acquisition and/or Condemnation	Approved Chief Engineer's Estimate of Damages and Benefits	Approved and Actual Size of Acquisition	Settlement, Ascertainment or Verdict Amount
Vacant Land Located in Las Animas County (PE-1, TE-1A, TE-1B) Owner: The Charles Milosevich Family Limited Partnership	TC-16-11-25	\$4,220.00	1.825 Acres	\$4950.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the actual size of the acquisition and the settlement, ascertainment, or verdict amount listed above.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date