

Resolution # TC-19-6-[]

R4 I-25 and SH 119 Interchange Project, C 0253-278, Project Code 23158

Authorizing the Chief Engineer to negotiate with the landowner of the property specified below.

Approved by the Transportation Commission on _____, 2019.

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 a property for the I-25 and SH 119 Interchange Project, Project Number C 0253-278, Project Code 23158 ("Project").

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

WHEREAS, CDOT seeks to acquire a property, as specified in the attached Chief Engineer's Estimate for the Project ("Property"). The Chief Engineer's Estimate specifies the landowner, property location, proposed size of the acquisition, and the estimated damages and benefits, if any, to the property; 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 Project and the Property, the Transportation Commission has determined that the proposed changes to Interstate Highway 25 and State Highway No. 119 will serve the public interest and/or convenience of the traveling public and that acquisition of the Property 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 Interstate Highway 25 and State Highway No. 119 by virtue of the I-25 and SH 119 Interchange Project, Project Number C 0253-278, Project Code 23158, parcel RW-1 and authorizes the CDOT staff to negotiate with the landowner of the Property 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 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 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
2829 W. Howard Place, Suite 562
Denver, CO 80204

MEMORANDUM

TO: TRANSPORTATION COMMISSION

FROM: JOSH LAIPPLY, CHIEF ENGINEER 

DATE: June 7, 2019

SUBJECT: REPORT PURSUANT TO COLORADO REVISED STATUTES, §43-1-208 REGARDING PROJECT NUMBER 0253-278 I-25 AND SH 119 INTERCHANGE, 23158, SEEKING APPROVAL TO NEGOTIATE WITH LANDOWNERS

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 alter and improve a portion of I-25/SH 119 Interchange.

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 landowners for the Properties.

Description of Portion of Highway to be Changed and Proposed Changes

I-25/SH 119 Interchange project, 23158, is to expand the park and ride parking area to increase opportunities for the traveling public to access multi-modal transportation along the northern I-25 corridor.

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

There is one property necessary for completion of the Project. The following is a list of the parcel required and a description of the parcel's purpose for the Project.

The Cost Estimate approved by Peter T. Sulmeisters, Region 4 Right-of-Way Supervisor, attached to this report, individually lists the estimate of land acquisition costs, property value, and/or damages for the Property 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 Property.

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 is one (1) fee acquisition needed for the completion of the project.

1. Address: NW ¼, Sec 11, T2N, 68W, 6th PM
Landowner's Name: THF Firestone Development LLC
Current Size of Property: 247,274 s.f./5.677 acres
Proposed Size of Acquisition: a total of 247,274 s.f./5.677 acres, of which 247,274 s.f./5.677 acres is fee acquisition
Purpose of Parcels Necessary for Project:
 - RW-1: \$2,473,000 247,274 s.f./5.677 acres as Fee Acquisition for park and ride purposes.
Estimated Property Value, Damages and Benefits (if any): \$2,473,000-roundedMethod 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 CHIEF ENGINEER'S RIGHT-OF-WAY COST ESTIMATE	Project Code: 23158	State Highway # I-25
	Project No: C 0253-278	
	Location: I-25 AND SH 119 INTERCHANGE	

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
Jahn Supply
 Date: **6/7/2019**

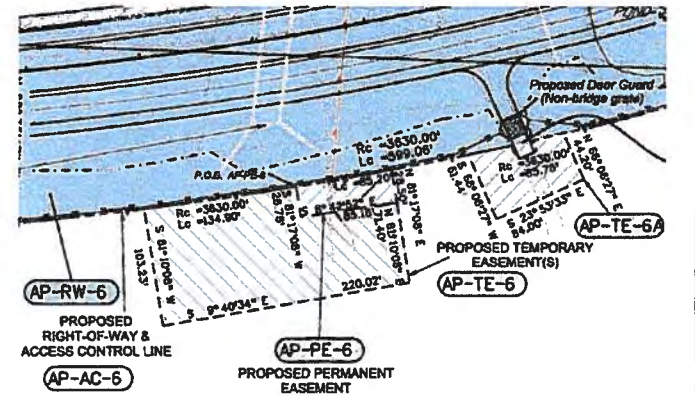
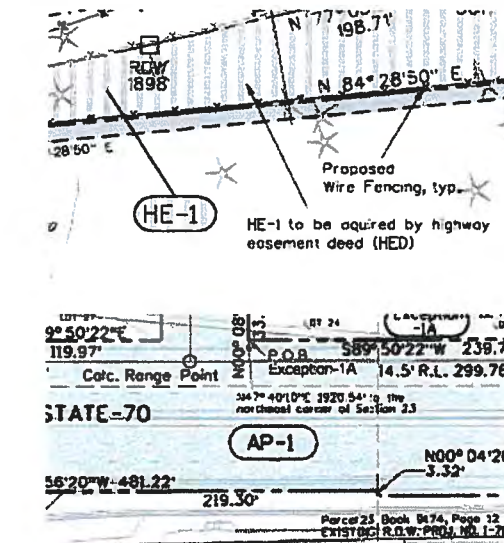
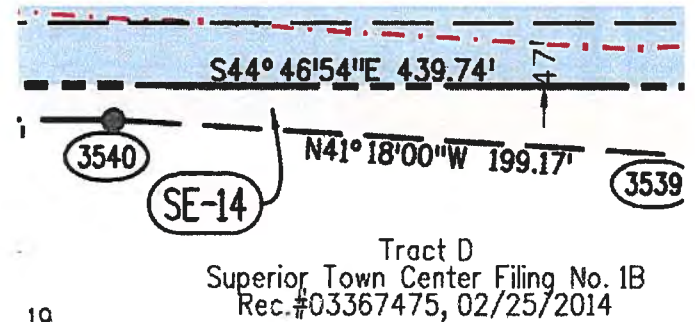
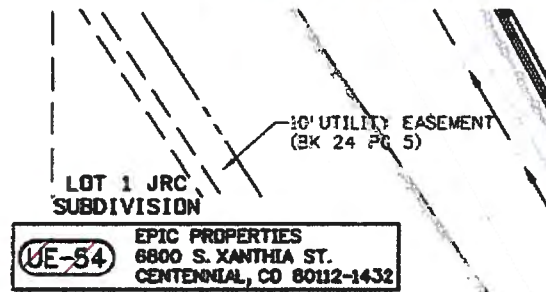
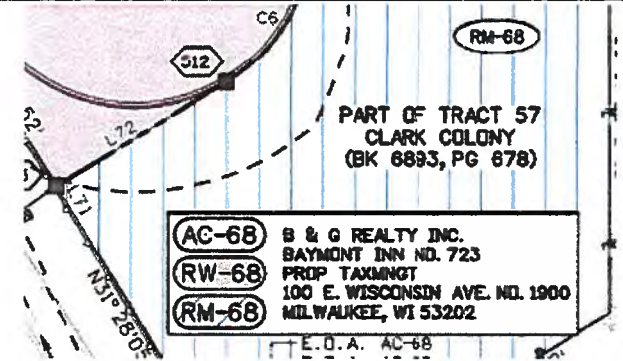
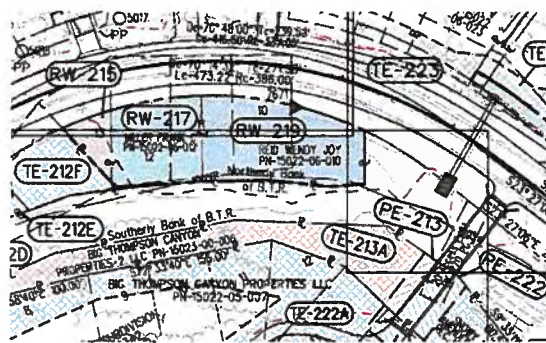
Parcel	Owner	Area	Unit	Unit Value		%	Land Value	Improvements	Damages / (Benefits)	Land Rental (mos)	Land Rental Cost	Total		
				\$/Unit	@									
RW-1	THE FIRESTONE DEVELOPMENT LLC, A MISSOURI LIMITED LIABILITY COMPANY	247,274	SF	\$10.00	@	100%	\$ 2,472,740					\$ 2,473,000		
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Sheet Totals							\$	2,472,740	\$	-	\$	-	\$	2,473,000

File Path: Project 23158-Row_Survey-Drawings-Tabs

Colorado statute, CRS 43-1-208, as interpreted by the Colorado Supreme Court in Department of Transportation, State of Colorado v. Amerco Real Estate Company, 380 P.3d 117 (Colo. 2016), requires the Chief Engineer of the Colorado Department of Transportation to "make a written report to the [transportation] commission describing the portion of the highway to be ... changed and the portions of land of each landowner to be taken ... together with an estimate of the damages and benefits accruing to each landowner whose land may be affected thereby" prior to any action to acquire or condemn real property for a highway purpose. CDOT must comply with this law at the outset of project development and prior to any entry on land or formal appraisal of real property. The Chief Engineer Cost Estimates are estimates of land value necessary for compliance with Colorado statute CRS 43-1-208 as interpreted by the Amerco decision. CDOT's Chief Engineer Cost Estimates do not comply with USPAP's direction that "any opinion of value" is deemed an appraisal. Because Colorado law requires an "estimate of damages" early in project development and before any entry on land or formal appraisal, CDOT is entitled to a jurisdictional exception to USPAP.

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
XXX - RM	Remnant Parcel
UE - XXX	Utility Easement
SE - XXX	Slope Easement
HE - XXX	Highway Easement
AP - XXX	Early Acquisition Parcel (Advance of Plans) AP Parcels may carry additional designation for easements, remnants or access control
AP-TE-XXX	
AP-AC-XXX	
AP-RW-XXX	
AP-PE-XXX	





10601 W. 10th Street
Greeley, CO 80634
Phone: 970-350-2161

Sheet Revisions

Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Sheet Revisions

Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

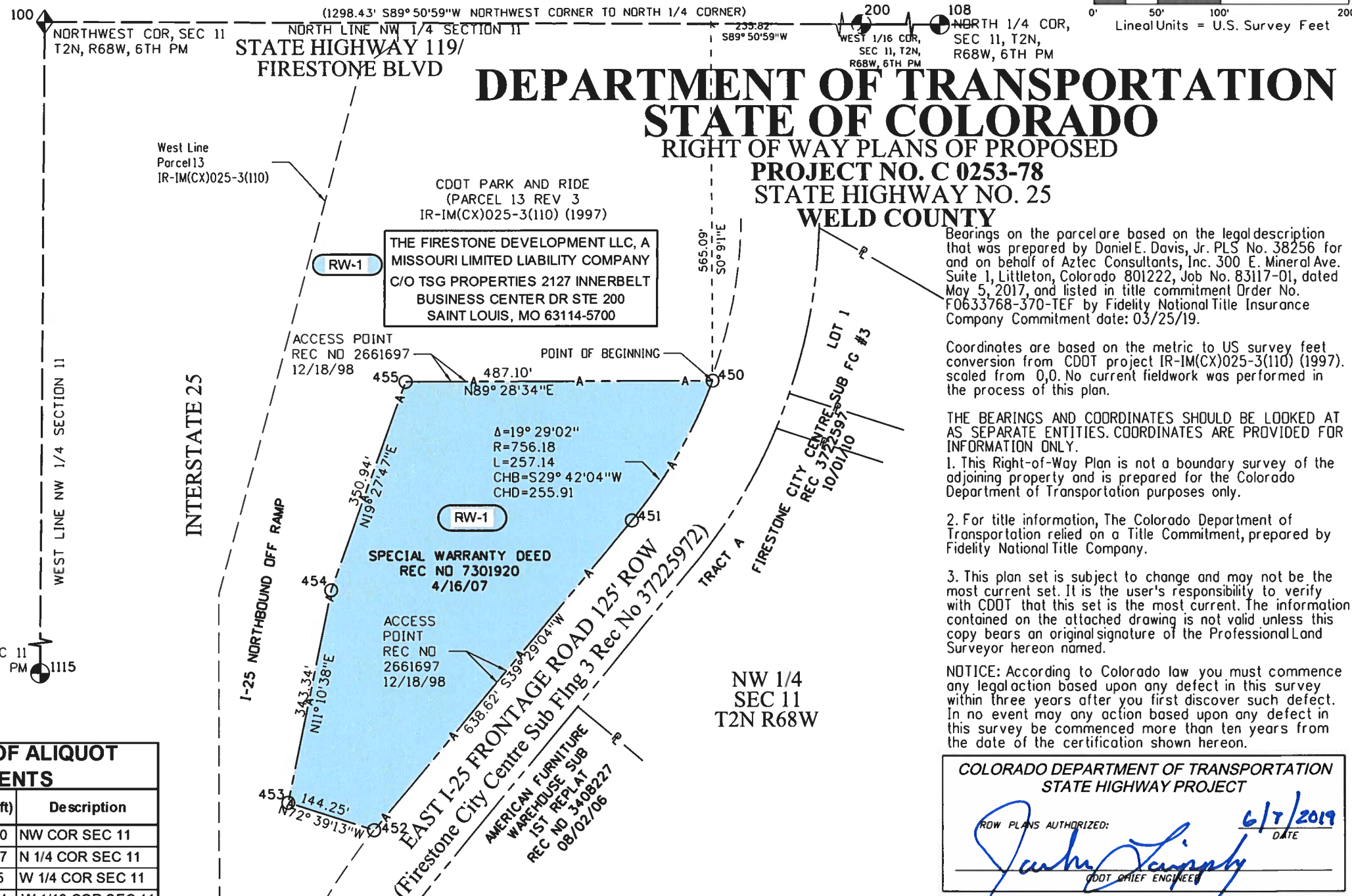
Sheet Revisions

Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Right of Way Plans

Title Sheet

Project Number: C 0253-278			
Project Location: I-25 AND SH 119 INTERCHANGE			
Project Code:	Last Mod. Date:	Subset:	Sheet No.:
23158	06/03/19	1.01 of 1.01	1.01



DEPARTMENT OF TRANSPORTATION STATE OF COLORADO

RIGHT OF WAY PLANS OF PROPOSED PROJECT NO. C 0253-78 STATE HIGHWAY NO. 25 WELD COUNTY

Bearings on the parcel are based on the legal description that was prepared by Daniel E. Davis, Jr. PLS No. 38256 for and on behalf of Aztec Consultants, Inc. 300 E. Mineral Ave. Suite 1, Littleton, Colorado 80122, Job No. 83117-01, dated May 5, 2017, and listed in title commitment Order No. F0633768-370-TEF by Fidelity National Title Insurance Company Commitment date: 03/25/19.

Coordinates are based on the metric to US survey feet conversion from CDDT project IR-IM(CX)025-3(110) (1997), scaled from 0,0. No current fieldwork was performed in the process of this plan.

THE BEARINGS AND COORDINATES SHOULD BE LOOKED AT AS SEPARATE ENTITIES. COORDINATES ARE PROVIDED FOR INFORMATION ONLY.

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 relied on a Title Commitment, prepared by Fidelity National Title Company.

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 CDDT that this set is the most current. The information contained on the attached drawing is not valid unless this copy bears an original signature of the Professional Land Surveyor hereon named.

NOTICE: According to Colorado law you must commence any legal action 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 hereon.

COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY PROJECT

ROW PLANS AUTHORIZED: *Paul A. Hernandez* 6/7/2019
DATE

CDOT CHIEF ENGINEER

TABULATION OF INFORMATION ONLY POINTS

Point No.	Northing(ft)	Easting(ft)	Description
450	9430.97	11060.59	INFO_ONLY
451	9209.59	10932.3	INFO_ONLY
452	8719.33	10523.33	INFO_ONLY
453	8763.03	10385.76	INFO_ONLY
454	9099.48	10454.48	INFO_ONLY
455	9429.59	10573.5	INFO_ONLY

TABULATION OF ALIQUOT MONUMENTS

Point No.	Northing(ft)	Easting(ft)	Description
100	10000.00	10000.00	NW COR SEC 11
108	9990.44	12596.67	N 1/4 COR SEC 11
1115	7361.48	9978.55	W 1/4 COR SEC 11
200	9995.22	11298.34	W 1/16 COR SEC 11

R.O.W. TABULATION OF PROPERTIES IN WELD COUNTY STATE HIGHWAY NO. 25

Parcel No.	Ownership Name and Mailing Address	Parcel Id	Location	Area In Square Feet / Acres (below)		Book and Page No. And/Or Reception No.	Title Commitment No.	Remarks
				Area Of Parcel	Larger Parcel			
RW-1	THE FIRESTONE DEVELOPMENT LLC, A MISSOURI LIMITED LIABILITY COMPANY C/O TSG PROPERTIES 2127 INNERBELT BUSINESS CENTER DR STE 200 SAINT LOUIS, MO 63114-5700	131311000075	NW 1/4 SEC 11 T2N, 68W, 6th PM	247,274	247,274		597-F0633768-370-TEF	For expansion of park-n-Ride facilities

SURVEYOR STATEMENT (ROW PLAN)

I, Paul A. Hernandez, 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. 32829

FILING CERTIFICATION: DEPOSITED THIS 20th DAY OF 2019 AT 10:15:33 AM IN BOOK OF THE COUNTY LAND SURVEYS/RIGHT OF WAY SURVEYS AT PAGE 1. RECEPTION NUMBER 1. SIGNED DEPT. PROJECTS\22000-22999\500-599\22547 - I-25 and sh 119 park-n-ride\RDW_Survey\Drawings\22547RDW_RW-01.dgn 6/4/2019 10:15:33 AM pw:\CDOT\APP56.dot.state.co.us\wise\production\Documents\Projects\22000-22999\500-599\22547 - I-25 and sh 119 park-n-ride\RDW_Survey\Drawings\22547RDW_RW-01.dgn

EXHIBIT "A"

PROJECT NUMBER: C 0253-278

PARCEL NUMBER: RW-1

PROJECT CODE: 23158

DATE: May 29, 2019

DESCRIPTION

A tract or parcel of land No. RW-1 of the Department of Transportation, State of Colorado Project No. C 0253-278 containing 247,274 sq. ft. (5.677 acres), more or less, in Section 11, Township 2 North, Range 68 West, of the 6th P.M., in Weld County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 11, as monumented by a 3-1/4" aluminum cap, stamped "PLS 24307", whence the Northwest corner of said Section 11, as monumented by a 3-1/4" aluminum cap, stamped "PLS 24307", bears S89° 50' 59" W, a distance of 1298.43 feet forming the basis of bearings used in this description;

Thence S89° 50' 59" W, along the North line of said Northwest Quarter of the Northwest Quarter a distance of 235.82 feet;

Thence S00° 09' 01" E, a distance of 565.09 feet to a point on a curve on the Westerly right of way of the East Interstate 25 frontage road, said point being the Point of Beginning;

Thence along said Westerly right of way and along the arc of a curve to the right having a central angle of 19° 29' 02", a radius of 756.18 feet, an arc length of 257.14 feet, and a chord that bears S29° 42' 04" W, a distance of 255.91 feet;

Thence S39° 29' 04" W, continuing along said Westerly right of way a distance of 638.62 feet;

Thence N72° 39' 13" W, a distance of 144.25 feet to the Easterly right of way of said Interstate 25;

Thence N11° 10' 38" E, along said Easterly right of way, a distance of 343.34 feet;

Thence N19° 27' 47" E, continuing along said Easterly right of way, a distance of 350.94 feet to a point on the Southerly boundary of the Interstate 25 and said Highway 111 Park and Ride;

Thence N89° 28' 34" E, along said Southerly boundary, a distance of 487.10 feet to the Point of Beginning, County of Weld, State of Colorado.

The above described parcel contains 247,274 sq. ft. (5.677 acres), more or less.

The above legal description was prepared by: Daniel E. Davis, Jr. PLS No. 38256 for and on behalf of Aztec Consultants, Inc. 300 E. Mineral Ave. Suite 1, Littleton, Colorado 801222, Job No. 83117-01, dated May 5, 2017 as provided by Fidelity National Title Company Title Commitment. Issuing Office File Number: 597-F0633768-370-TEF. Commitment Date: March 25, 2019

For and on behalf of the
Colorado Department of Transportation
Paul A. Hernandez, PLS 32829
10601 W 10th Street
Greeley, CO 80634

