



City Council of Commerce City

Regular Meeting Agenda

Council Chambers, 7887 E. 60th Ave.

Monday, March 7, 2011, 6:30 p.m.

(TIMES INDICATED NEXT TO AGENDA ITEMS ARE AN APPROXIMATE START TIME ONLY)

1. Call to Order - 6:30

2. Roll Call - 6:35

3. Pledge of Allegiance

4. Audience Introduction - 6:40

5. Citizen Communication - 6:45

Two Public Comment Rosters are available immediately inside the Council Chambers. Anyone who would like to address Council will be given the opportunity after signing one of the rosters. Speakers should limit their comments to three minutes.

6. Consent Agenda - 7:00

- a) **Z-894-11 AN ORDINANCE REZONING FROM I-1 TO I-3 ZONE DISTRICT THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, LOCATED AT 6450 YORK STREET, COMMERCE CITY, COLORADO, AND AMENDING THE ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO TO REFLECT SAID REZONING. **Tab 1****

6. Consent Agenda - 7:00

- b) **Ordinance 1852** AN ORDINANCE AMENDING THE **Tab 2**
2011 BUDGET OF THE CITY OF COMMERCE CITY,
COLORADO BY THE RECOGNITION OF THE
COLORADO DIVISION OF EMERGENCY
MANAGEMENT GRANT IN THE AMOUNT OF \$10,000
FOR THE REPLACEMENT OF WORKSTATIONS IN
THE EMERGENCY OPERATIONS CENTER AND THE
AUTHORIZATION OF THE EXPENDITURE THEREOF.

- c) **Ordinance 1853** AN ORDINANCE AMENDING THE **Tab 3**
2011 BUDGET OF THE CITY OF COMMERCE CITY,
COLORADO BY THE RECOGNITION OF THE
COLORADO DEPARTMENT OF TRANSPORTATION
GRANT IN THE AMOUNT OF \$40,000 FOR (DUI)
ENFORCEMENT EFFORTS AND THE AUTHORIZATION
OF THE EXPENDITURE THEREOF.

7. Resolution

- a) 7:05 **Resolution 2011-15** RESOLUTION OPPOSING XCEL **Tab 4**
REQUEST TO REDUCE SOLAR REBATE

- b) 7:15 **Resolution 2011-12** RESOLUTION REGARDING **Tab 5**
SUPPORT FOR A TAX INCREASE TO FUND
COMPLETION OF FASTRACKS INCLUDING THE
NORTH METRO CORRIDOR FROM DENVER UNION
STATION TO 160TH AVENUE, BY 2019

- c) 7:25 **Resolution 2011-10** RESOLUTION DESIGNATING THE **Tab 6**
CITY OF COMMERCE CITY AS DESIGNATED
EMERGENCY RESPONSE AUTHORITY

8. Ordinance on 1st Reading

- a) 7:35 **Ordinance 1855** AN ORDINANCE AMENDING **Tab 7**
SECTIONS 23-4 AND 23-5 OF CHAPTER 23 OF THE
REVISED MUNICIPAL CODE OF THE CITY OF
COMMERCE CITY, COLORADO RELATIVE TO

8. Ordinance on 1st Reading

GENERAL AGENCY ASSIGNMENTS AND SPECIFIC HAZARD ASSIGNMENTS SET FORTH IN THE EMERGENCY OPERATIONS PLAN FOR THE CITY OF COMMERCE CITY, COLORADO.

b) 7:45 **Ordinance 1850** AN ORDINANCE AMENDING SECTION 12-8001 ENTITLED "FRAUD BY CHECK" OF THE REVISED MUNICIPAL CODE OF THE CITY OF COMMERCE CITY. **Tab 8**

c) 7:55 **Ordinance 1851** AN ORDINANCE AMENDING CHAPTER 7 OF THE COMMERCE CITY REVISED MUNICIPAL CODE BY THE ADDITION OF SECTION 7-1014 PROHIBITING SMOKING IN CITY PARKS, TRAILS, OPEN SPACES AND RECREATION FACILITIES, WITH CERTAIN EXCEPTIONS. **Tab 9**

9. Study Items

a) 8:10 Residential Trash Storage Discussion **Tab 10**

b) 8:30 Discussion Item - Update Presentation to City Council on the I-70 EIS PACT **Tab 11**

10. Executive Session - 8:50

a) Executive Session for purpose of instructing negotiators on the I-70 EIS alignment - Pursuant to CRS 24-6-402(4) (e).

11. Administrative Council Business - 9:10

12. Legislative Update - 9:25

13. Reports - 9:30

14. Adjourn - 9:45



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 18 Jan 2011

Number of Attachments: 6

Subject: Case Z-894-11, a request from Metro Wastewater Reclamation District to rezone roughly 2 acres of newly acquired property located south of the existing treatment facility in order to unify the zoning on all of their property in the City

Presenter: Paul Workman, City Planner

Recommended City Council Action:

Approval, per Planning Commission Recommendation

Summary Statement:

Metro Wastewater Reclamation District requests that City Council approve the requested rezoning from the current I-1 designation to the requested I-3 designation for newly acquired property (just over 2 acres in size) so that the applicant will have a unified zoning designation for their property. The Development Review Team (DRT) and Planning Commission felt that the requested rezoning was an appropriate request in order to unify the zoning of the applicant's property, that the request is in conformance with the Comprehensive Plan, and the request is generally consistent with the surrounding land uses as they are mostly heavy intensity industrial zone districts.

Next Steps:

Expenditure Required: N/A

Source of Funds: N/A

Policy Issue: N/A

Alternative: 1. Approve the request as submitted by the applicant (recommend by Planning Commission).

2. Approve the request subject to conditions.
3. Deny the request.

Background Information:

Please see the attached Planning Commission minutes for detailed background and discussion.

ORDINANCE NO: Z-894-11

INTRODUCED BY: CARSON, JOHNSON, MCELLOWNEY, MORENO, NATALE,
 SNYDER, TETER

AN ORDINANCE REZONING FROM I-1 TO I-3 ZONE DISTRICT THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, LOCATED AT 6450 YORK STREET, COMMERCE CITY, COLORADO, AND AMENDING THE ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO TO REFLECT SAID REZONING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. The City Council of the City of Commerce City, Colorado, finds and declares that it has caused to be published in the Commerce City Sentinel Express, a legal newspaper of general circulation in the City of Commerce City, Notice of Public Hearing by the Planning Commission of the City of Commerce City, held January 4, 2011 concerning land hereinafter described, and that said Notice was published December 28, 2010 and that said Hearing was conducted all in compliance with law.

SECTION 2. The City Council of the City of Commerce City, Colorado further finds and declares that it has caused to be published in the Commerce City Sentinel Express, a legal newspaper of general circulation in the City of Commerce City, Notice of Public Hearing held on February 7, 2011 regarding rezoning of land hereinafter described, and that said Notice was published January 25, 2011 and that said Hearing was conducted all in compliance with law.

SECTION 3. That the property described in Exhibit "A" attached hereto and made a part hereof, now zoned I-1 be rezoned I-3 as defined in the Commerce City Land Development Code.

SECTION 4. That the zoning map of the City of Commerce City, Colorado be and is hereby amended to reflect the zoning amendment as provided in this ordinance.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED this 7th day of February, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED this 7th day of March, 2011.

CITY OF COMMERCE CITY, COLORADO

BY _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, City Clerk

Exhibit "A"
(Legal Description)

TWO PARCELS OF LAND BEING PORTIONS OF THE PSCo PARCEL AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 289 AT PAGE 155 LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN, ADAMS COUNTY, COLORADO BEING DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: ARE PER METRO WASTEWATER CENTRAL PLANT SITE HORIZONTAL AND VERTICAL CONTROL MONUMENT, SHEETS NO. 1-3, DATED 7-96. BEING THE WEST LINE OF NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., BEING MONUMENTED ON THE SOUTH BY A 3/4" ALUMINUM CAP – LS #17488 AND ON THE NORTH BY A 3/4" ALUMINUM CAP – LS #10734; BEARING N12°21'07"E A DISTANCE OF 2637.12 FEET.

PARCEL A

BEGINNING AT THE SOUTHWESTRLY CORNER OF LOT 1, BLOCK 1, METRO DISTRICT SUBDIVISION FILING NO. 1 AS RECORDED UNDER RECEPTION NO. C0008179;

THENCE ON THE EAST LINE OF THE WEST HALF OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, S12°21'09"W A DISTANCE OF 12.79 FEET, TO THE NORTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200;

THENCE ON SAID NORTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200, N60°42'31"W A DISTANCE OF 125.63 FEET, TO A POINT OF NON-TANGENT CURVE ON THE EASTERLY LINE OF THE SOUTH PLATTE RIVER CHANNEL DESCRIBED IN ORDINANCE NO. 14, SERIES OF 1935, IN THE CITY AND COUNTY OF DENVER RECORDS;

THENCE ON SAID EASTERLY LINE OF THE SOUTH PLATTE RIVER CHANNEL DESCRIBED IN ORDINANCE NO. 14, SERIES OF 1935, IN THE CITY AND COUNTY OF DENVER RECORDS, ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N44°49'11"W, HAVING A RADIUS OF 578.34 FEET, A CENTRAL ANGLE OF 14°55'44" AND AN ARC LENGTH OF 150.69 FEET, TO A POINT OF NON-TANGENT ON THE SOUTHWESTERLY LINE OF SAID LOT 1, BLOCK 1, METRO DISTRICT SUBDIVISION FILING NO. 1 AS RECORDED UNDER RECEPTION NO. C0008179, AND SAID SOUTHWESTERLY LINE EXTENDED WESTERLY;

THENCE ON SAID SOUTHWESTERLY LINE EXTENDED WESTERLY AND SAID SOUTHWESTERLY LINE OF SAID LOT 1, BLOCK 1, METRO DISTRICT SUBDIVISION FILING NO. 1 AS RECORDED UNDER RECEPTION NO. C0008179 THE FOLLOWING TWO (2) COURSES;

1. S77°52'58"E A DISTANCE OF 55.81 FEET;

2. S12°21'09"W A DISTANCE OF 159.82 FEET, TO THE POINT OF BEGINNING.
CONTAINING A CALCULATED AREA OF 13,663 SQUARE FEET OR 0.3136 ACRES.

PARCEL B

COMENCING AT THE SOUTHWESTERLY CORNER OF LOT 1, BLOCK 1, METRO DISTRICT SUBDIVISION FILING NO. 1 AS RECORDED UNDER RECEPTION NO. C0008179;

THENCE ON THE EAST LINE OF THE WEST HALF OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, S12°21'09"W A DISTANCE OF 91.20 FEET, TO THE POINT OF BEGINNING ON THE SOUTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200;

THENCE CONTINUING ON SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, S12°21'09"W A DISTANCE OF 68.34 FEET, TO THE NORTHERLY LINE OF BURLINGTON DITCH RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 15,

THENCE ON SAID NORTHERLY LINE OF BURLINGTON DITCH RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 15, THE FOLLOWING TWO (2) COURSES:

1. N69°21'13"W A DISTANCE OF 34.34 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S20°38'47"W, HAVING A RADIUS OF 428.22 FEET, A CENTRAL ANGLE OF 15°35'41" AND AN ARC LENGTH OF 116.55 FEET, TO A POINT OF NON-TANGENT ON THE NORTHEASTERLY LINE OF PSCo TRANSMISSION RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 633 AT PAGE 217;

THENCE ON SAID NORTHEASTERLY LINE OF PSCo TRANSMISSION RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 633 AT PAGE 217, N44°13'56"W A DISTANCE OF 94.61 FEET, TO THE EASTERLY LINE OF THE SOUTH PLATTE RIVER CHANNEL DESCRIBED IN ORDINANCE NO. 14, SERIES OF 1935, IN THE CITY AND COUNTY OF DENVER RECORDS;

THENCE ON SAID EASTERLY LINE OF THE SOUTH PLATTE RIVER CHANNEL DESCRIBED IN ORDINANCE NO. 14, SERIES OF 1935, IN THE CITY AND COUNTY OF DENVER RECORDS, THE FOLLOWING TWO (2) COURSES;

1. N60°14'28"E A DISTANCE OF 14.56 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N29°45'32"W, HAVING A RADIUS OF 578.34 FEET, A CENTRAL ANGLE OF 07°09'20" AND AN ARC LENGTH OF 72.23 FEET, TO A POINT OF NON-

TANGENT ON SAID SOUTHERLY LINE OF UPRR RIGHT-OF-WAY AS
DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200;

THENCE ON SAID SOUTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN
DOCUMENT RECORDED IN BOOK 47 AT PAGE 200, S60°42'31"E A DISTANCE OF
175.53 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 17,564 SQUARE FEET OR 0.4032 ACRES.

**EXCLUDING PART REPLATED AS METRO DISTRICT FILING NO. 2.
RECEPTION # 2010000080181**

A PARCEL OF LAND BEING A PORTION OF THE UPRR PARCEL LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN; ADAMS COUNTY, COLORADO BEING DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: ARE PER METRO WASTEWATER CENTRAL PLANT SITE HORIZONTAL AND VERTICAL CONTROL MONUMENT, SHEETS NO. 1-3, DATED 7-96. BEING THE WEST LINE OF NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., BEING MONUMENTED ON THE SOUTH BY A 3 1/4" ALUMINUM CAP - LS #17488 AND ON THE NORTH BY A 3 1/4" ALUMINUM CAP - LS #10734; BEARING N12°21'07" E A DISTANCE OF 2637.12 FEET.

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 1, BLOCK 1, METRO DISTRICT SUBDIVISION FILING NO. 1 AS RECORDED UNDER RECEPTION NO. C000817B;

THENCE ON THE SOUTHERLY LINE OF SAID LOT 1, S80°16'43"E A DISTANCE OF 496.32 FEET, TO A POINT OF NON-TANGENT CURVE ON THE NORTHERLY LINE OF BURLINGTON DITCH RIGHT-OF-WAY AS RECORDED IN BOOK 47 AT PAGE 54;

THENCE ON SAID NORTHERLY LINE OF BURLINGTON DITCH RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N06°13'34"W, HAVING A RADIUS OF 736.88 FEET, A CENTRAL ANGLE OF 28°52'21" AND AN ARC LENGTH OF 346.66 FEET;
2. N69°21'13"W A DISTANCE OF 133.98 FEET, TO THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE ON SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, N12°21'09"E A DISTANCE OF 68.34 FEET, TO THE SOUTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200;

THENCE ON SAID SOUTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200, N60°42'31"W A DISTANCE OF 692.44 FEET, TO THE WEST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE ON SAID WEST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, N12°22'54"E A DISTANCE OF 46.78 FEET, TO THE SOUTHERLY LINE OF LOT 2 BLOCK 1, LITVAK SUBDIVISION FILING NO. 2 AS RECORDED UNDER RECEPTION NO. 2001030772640 AND THE NORTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200;

THENCE ON SAID NORTHERLY LINE OF UPRR RIGHT-OF-WAY AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 47 AT PAGE 200 THE FOLLOWING THREE (3) COURSES:

1. S77°36'01"E A DISTANCE OF 399.93 FEET;
2. S12°10'29"W A DISTANCE OF 89.95 FEET;
3. S60°42'31"E A DISTANCE OF 274.05 FEET, TO SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER;

THENCE ON SAID EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, N12°21'09"E A DISTANCE OF 12.79 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 111,327 SQUARE FEET OR 2.5557 ACRES, MORE OR LESS.

RECORD OF PROCEEDINGS

Commerce City Planning Commission
January 4, 2011

Commerce City Civic Center
Page 2

CASES: S-574-11 and Z-894-11

Location: 6450 York Street Commerce City, CO 80022

Applicant: Metro Wastewater Reclamation District (MWRD), 6450 York Street
 Commerce City, CO 80022

Owner: Same as Applicant

Request: The applicant requests the following:

1. Approval of a consolidation plat in order to incorporate recently purchased property into an existing lot.
2. Approval of a rezoning from an I-1 designation to an I-3 designation in order to match the zoning of newly purchased property with their existing property.

Staff Recommendation: Approval

Current Zone District: Existing Site: I-3 Heavy Intensity Industrial Zone District
Newly Purchased: I-1 Light-Intensity Industrial Zone District

Comp Plan Designation: Utility

S-574-11 and Z-894-11 Site Background:

| | |
|------------------------|---|
| Site Size: | <u>Existing Site:</u> 133.86 Acres +/- <u>Newly Purchased:</u> 2.0575 Acres +/- |
| Site Conditions: | <u>Existing Site:</u> Developed as a Wastewater Treatment Facility. <u>Newly Purchased:</u> Undeveloped. |
| Existing Right-of-Way: | York Street is located west of both properties. |
| Existing Easements: | <u>Existing Site:</u> Numerous recorded easements, mostly belonging to Public Service and Denver Water. <u>Newly Purchased:</u> None |
| Existing Buildings: | <u>Existing Site:</u> In excess of 40 buildings. <u>Newly Purchased:</u> None existing & none proposed. |
| Buildings to Remain? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

S-574-11 and Z-894-11 Surroundings:

| <u>Existing Land Use</u> | <u>Occupant</u> | <u>Zoning</u> |
|--------------------------|---------------------------------------|---------------|
| Public/Utility | Metro Wastewater Reclamation District | I-3 |
| Public/Utility | Denver Water | PUBLIC |
| Industrial | Suncor | I-3 |
| Industrial | Multiple Industrial Users | ADCO |

S-574-11 and Z-894-11 Case History:

There are two previous cases that are relevant for the submitted application. Those cases have been detailed below.

| Case | Date | Request | Action |
|-------------|------------|--|-------------------------------------|
| CU-37-93 | 10/18/1993 | Conditional Use Permit to operate a wastewater treatment facility. | Approval with one condition |
| CU-37-93-10 | 8/9/2010 | Amend an existing Conditional Use Permit | Approval with one conditions |

CU-37-93:

In October of 1993, City Council granted approval to MWWRD to operate a wastewater treatment facility for the property located at 6450 York Street. This approval was granted, subject to the following condition:

1. *Failure to adhere to the approved development plan shall constitute basis for revocation by the City of Commerce City, after public hearing, of the Conditional Use authorized for the above-described property, it being expressly determined by this City Council that the Conditional Use granted by the City of Commerce City in Case CU-37-93 is not proper in the absence of compliance with the approved development plan.*

CU-37-93-10:

In August of 2010, City Council approved a request to amend the applicant's existing Conditional Use Permit to operate a wastewater treatment facility. The original CUP limited the site to a specific development plan, which the applicant was required to change based on increased demand and new state regulations. This amendment was approved with the following condition:

This facility is required to stay current with all necessary permits as required by regulating agencies.

S-574-11 Applicant's Summary:

Metro Wastewater Reclamation District (MWWRD) is requesting the approval of a consolidation plat so that they can consolidate roughly 2 acres of recently purchased property (zoned I-1 and referred to as "Rezoning Property" due to the request to rezone the area to I-3) into roughly 135 acres of an existing lot (zoned I-3). This newly purchased property is located directly south of the existing site and is comprised of old railroad right-of-way. This property was purchased so that MWWRD would be able to construct a bridge landing that will connect the treatment operations to a new access off of York Street across the South Platte River in Adams County. The applicant has also submitted a zone

change application in order to have a unified zoning designation on the property (see Z-894-11 for information regarding the application to unify the zoning of the existing lot and the recently purchased area).

Z-894-11 Applicant's Summary

Metro Wastewater Reclamation District (MWWRD) is requesting the approval of a rezoning from an I-1 designation to an I-3 designation so that they can unify the zoning of newly purchased property with their existing property (in addition to consolidating all of their lots into one lot). The newly purchased property is made up of 3 parcels of old railroad right-of-way and is located directly south of the existing site. This property was purchased so that MWWRD would be able to construct a bridge landing that will connect the treatment operations to a new access off of York Street across the South Platte River located in Adams County. In addition to this application, MWWRD has submitted a consolidation plat in order to consolidate all of their lots (see S-574-11 for information regarding the application to consolidate the newly purchased area with the existing lot.).

MWWRD has indicated that *"the purpose of these applications is (i) to incorporate the newly acquired Rezoning Property onto Lot 1 to enable Metro to develop its property in an efficient and rational way that could not be accomplished if interior lot lines and their corresponding setbacks were present (ii) to afford lawful access for the Rezoning Property to a public street (York Street), and (iii) to unify the zoning classification of Lot 1 after the Rezoning Property is incorporated into it. The actual uses to which Metro intends to put the Rezoning Property consists of construction and operation of a private roadway and the eastern section of a vehicular bridge across the South Platte River, which will furnish an alternative access point to Metro treatment facilities already existing on Lot 1."*

When asked to describe the uses of the newly purchased property, MWWRD states that *"These new uses are incidental to the existing uses on Metro's property, which are industrial in character. The Rezoning Property and the facilities to be installed on it are necessary to provide access to that property (from York Street)." The applicant goes on to say "While the zoning classification sought by Metro is necessary to respond to changing conditions, it will not really result in any new types of uses and will not change the existing character of the Rezoning Property or its surroundings. Further, it will have the beneficial effect of unifying the zoning classification of all the property located within the Metro Districts Subdivision Filing No. 1."*

S-574-11 DRT Analysis:

The Development Review Team (DRT) began their review of the submitted application in Article VI of the land development code (LDC) to determine if the applicant was even required to submit this application. After reviewing the LDC, staff determined that the applicant was governed under the following section of the LDC:

Section 21-6100(2):

“Exemptions. *The standards related to the subdivision of land contained in this land development code shall not apply to the following:*

(c) The division of land which creates an easement, right-of-way, or site for the use of governmental agencies or public utilities possessing the power of condemnation.”

Given MWWRD’s unique status as quasi-governmental and their power of condemnation, they are exempt from the subdivision regulations as outlined in the LDC and have submitted this application voluntarily due to their desire to have one unified lot rather than several lots with interior lot lines that may create issues and confusion in the future. Generally, DRT was pleased that the applicant has submitted this application to unify the property, rather than trying to clean up this issues at some future date.

Compliance with City Standards:

In reviewing the lot standards for the I-3 zone district, DRT concluded that the application meets both of the required lot minimums. The details have been provided below.

| Proposed Application | | | |
|-----------------------------|--------------------|-------------------|--------------------|
| | I-3 Lot Standard | Proposed | Meets the Standard |
| Minimum Lot Area | 50,000-square feet | 135.716 Acres +/- | Yes |
| Minimum Lot Frontage | 80-feet | 1185.93-feet | Yes |

The site far exceeds the minimum requirement for lot area and the lot frontage was calculated based on the liner frontage along the west side of the property next to York Street. While this frontage is unconventional due to the South Platte River, this lot will far exceed the minimum frontage requirement and the site is provided access from adjacent lots owned by MWWRD in Adams County.

Z-894-11 DRT Analysis:

In reviewing the application that has been submitted by the applicant, DRT concluded that it is in the best interest of the City to have one zoning designation on property and the Team determined that some of the benefits for having a single designation include:

1. A clearly identified set of uses.
2. A clearly identified set of bulk standards.
3. A compatibility of uses.
4. Predictability for future development.

In addition to analyzing the benefits for having a unified zoning, DRT also used the Comprehensive Plan to guide their recommendation. The Comprehensive Plan map identifies this site for “Utility” uses. Within the Comprehensive Plan, the “Utility” designation is intended for “Land uses for utilities, such as wastewater facilities, electricity, and active and future landfills. May include water storage.” After reading this language, DRT concluded that the use of the property as a wastewater treatment facility was in conformance with the Comprehensive Plan.

Given how important it was to DRT that there be a single zoning designation on the property, the fact that the use of the property is in alignment with the Comprehensive Plan, and the fact that the applicant has voluntarily submitted this application there was tremendous support for the request.

Outside Agency Review:

Staff referred this application to several outside agencies. The one agency that responded was The Farmer’s Reservoir and Irrigation Company (FRICO). In their response FRICO wanted to ensure that their access to the ditch would remain the same. MWWRD has responded to FRICO ensuring the existing access would remain and FRICO has indicated that they are satisfied with their continued access.

Opponents: None

Proponents: None

DISCUSSION:

Mr. Paul Workman explained the subject request. *Details noted in background summary above.*

Mr. Charles Kuechenmeister, representing Metro Wastewater Reclamation District was present to reply to questions on the request.

The Planning Commission was satisfied with the facts presented to them and did not voice any concerns. There being no further discussion on the case a motion was requested.

MOTION:

#S-574-11:

Mr. Adair made the following motion: “I move that Planning Commission enter a finding that the consolidation plat requested in S-574-11 meets the criteria of the Land Development Code and based upon such finding, forward a favorable recommendation to City Council to approve the requested consolidation plat”

Mr. Jones seconded the motion:

RECORD OF PROCEEDINGS

Commerce City Planning Commission
January 4, 2011

Commerce City Civic Center
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Voice Vote: All Voting Affirmed.

Motion Passed

#Z-894-11:

Mr. Robertson made the following motion: "I move that Planning Commission enter a finding that the rezoning requested in Z-894-11 meets the criteria of the Land Development Code and based upon such finding, forward a favorable recommendation to City Council to approve the requested rezoning."

Mr. Jones seconded the motion:

Voice Vote: All Voting Affirmed.

Motion Passed.

Commission Business:

None

Attorney Business:

None

Staff Business:

Staff informed the Planning Commission that a Study Session would be held on February 1, 2011 to discuss periodic amendments to the Land Development Code (LDC).

ADJOURN: There being no further business to discuss, Mr. McFarlin adjourned the meeting at 6:17 p.m.

J.E. "Mac" McFarlin, Chairman



7887 East 60th Avenue
 Commerce City, Colorado 80022
 Phone (303) 289-3683 / Fax (303) 289-3731
 www.c3gov.com

STAFF REPORT PLANNING COMMISSION

Meeting Date: January 4, 2011 **Case Planner:** Paul Workman

Case No: Z-894-11

Location: 6450 York Street Commerce City, Colorado 80022

Applicant: Metro Wastewater Reclamation District (MWWRD), 6450 York Street
 Commerce City, Colorado 80022

Owner: Same as Applicant

Request: The applicant requests the approval of a rezoning from an I-1 designation to an I-3 designation in order to match the zoning of newly purchased property with their existing property.

Staff Recommendation: Approval

Current Zone District: Existing Site: I-3 Heavy Intensity Industrial Zone District
Newly Purchased: I-1 Light-Intensity Industrial Zone District (See S-574-11 for consolidation plat information)

Comp Plan Designation: Utility

| Site | |
|------------------------|--|
| Site Size: | <u>Existing Site:</u> 133.86 Acres +/- <u>Newly Purchased:</u> 2.0575 Acres +/- |
| Site Conditions: | <u>Existing Site:</u> Developed as a Wastewater Treatment Facility. <u>Newly Purchased:</u> Undeveloped. |
| Existing Right-of-Way: | York Street is located west of both properties. |
| Existing Easements: | <u>Existing Site:</u> Numerous recoded easements, mostly belonging to Public Service and Denver Water. <u>Newly Purchased:</u> None |
| Existing Buildings: | <u>Existing Site:</u> In excess of 40 buildings. <u>Newly Purchased:</u> None existing & none proposed. |
| Buildings to Remain? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Surroundings

| <u>Existing Land Use</u> | | <u>Occupant</u> | <u>Zoning</u> |
|--------------------------|----------------|---------------------------------------|---------------|
| North | Public/Utility | Metro Wastewater Reclamation District | I-3 |
| South | Public/Utility | Denver Water | PUBLIC |
| East | Industrial | Suncor | I-3 |
| West | Industrial | Multiple Industrial Users | ADCO |

Case History

Previous Case History:

There are two previous cases that are relevant for the submitted application. Those cases have been detailed below.

| Case | Date | Request | Action |
|-------------|------------|--|-------------------------------------|
| CU-37-93 | 10/18/1993 | Conditional Use Permit to operate a wastewater treatment facility. | Approval with one condition |
| CU-37-93-10 | 8/9/2010 | Amend an existing Conditional Use Permit | Approval with one conditions |

CU-37-93:

In October of 1993, City Council granted approval to MWWRD to operate a wastewater treatment facility for the property located at 6450 York Street. This approval was granted, subject to the following condition:

- 1. Failure to adhere to the approved development plan shall constitute basis for revocation by the City of Commerce City, after public hearing, of the Conditional Use authorized for the above-described property, it being expressly determined by this City Council that the Conditional Use granted by the City of Commerce City in Case CU-37-93 is not proper in the absence of compliance with the approved development plan.*

CU-37-93-10:

In August of 2010, City Council approved a request to amend the applicant's existing Conditional Use Permit to operate a wastewater treatment facility. The original CUP limited the site to a specific development plan, which the applicant was required to change based on increased demand and new state regulations. This amendment was approved with the following condition:

- 1. This facility is required to stay current with all necessary permits as required by regulating agencies.*

Applicant's Request and Narrative Summary

Metro Wastewater Reclamation District (MWWRD) is requesting the approval of a rezoning from an I-1 designation to an I-3 designation so that they can unify the zoning of newly purchased property with their existing property (in addition to consolidating all of their lots into one lot). The newly purchased property is made up of 3 parcels of old railroad right-of-way and is located directly south of the existing site. This property was purchased so that MWWRD would be able to construct a bridge landing that will connect the treatment operations to a new access off of York Street across the South Platte River located in Adams County. In addition to this application, MWWRD has submitted a consolidation plat in order to consolidate all of their lots (see S-574-11 for information regarding the application to consolidate the newly purchased area with the existing lot.).

MWWRD has indicated that *“the purpose of these applications is (i) to incorporate the newly acquired Rezoning Property onto Lot 1 to enable Metro to develop its property in an efficient and rational way that could not be accomplished if interior lot lines and their corresponding setbacks were present (ii) to afford lawful access for the Rezoning Property to a public street (York Street), and (iii) to unify the zoning classification of Lot 1 after the Rezoning Property is incorporated into it. The actual uses to which Metro intends to put the Rezoning Property consists of construction and operation of a private roadway and the eastern section of a vehicular bridge across the South Platte River, which will furnish an alternative access point to Metro treatment facilities already existing on Lot 1.”*

When asked to describe the uses of the newly purchased property, MWWRD states that *“These new uses are incidental to the existing uses on Metro’s property, which are industrial in character. The Rezoning Property and the facilities to be installed on it are necessary to provide access to that property (from York Street).”* The applicant goes on to say *“While the zoning classification sought by Metro is necessary to respond to changing conditions, it will not really result in any new types of uses and will not change the existing character of the Rezoning Property or its surroundings. Further, it will have the beneficial effect of unifying the zoning classification of all the property located within the Metro Districts Subdivision Filing No. 1.”*

Neighborhood Meeting?

Yes

No

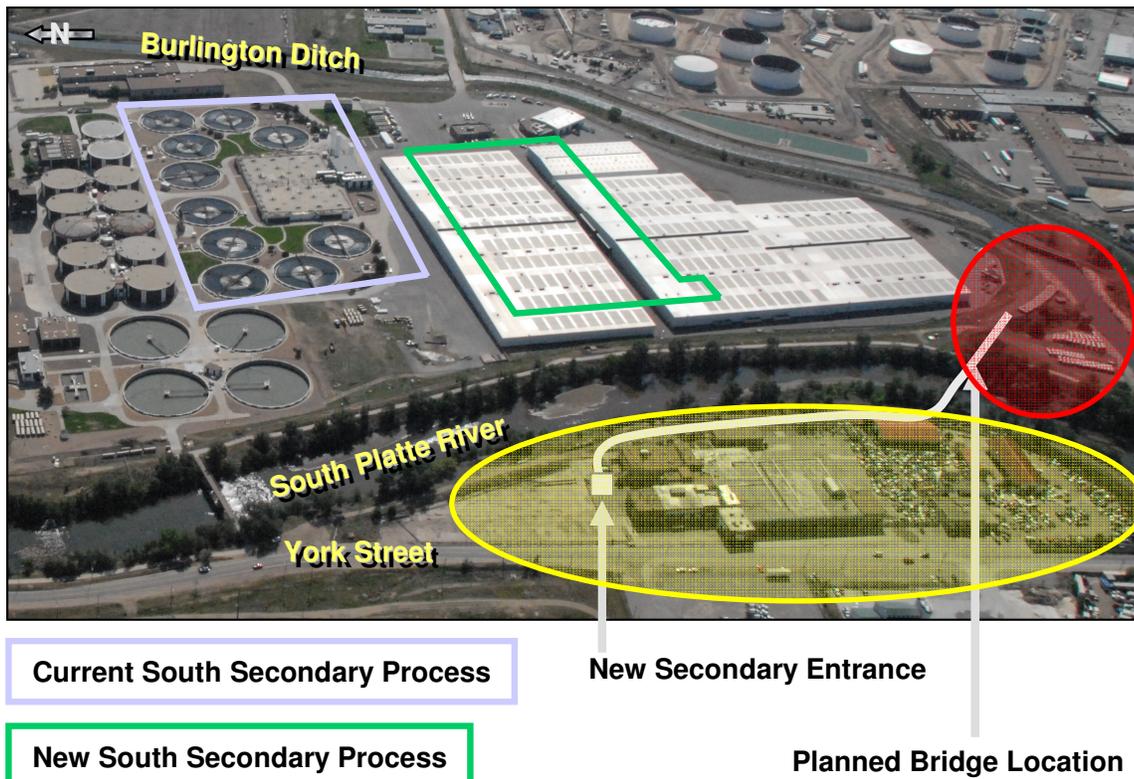
The applicant has been in operation for a number of years and is surrounded by heavy intensity industrial users. Due to the nature of the surrounding area, MWWRD was not required to hold a neighborhood meeting as a part of this rezoning.

Development Review Team Analysis

Background:

In August of 2010, City Council approved CU-37-93-10 which updated MWWRD’s Conditional Use Permit (CUP). This update was necessary for MWWRD to make required changes to their site over the course of the next 20+ years. One of the items identified in the CUP update as a current improvement was the implementation of a second controlled access point (the bridge discussed in this application).

Applicant's provided Graphic:



In order to provide this second access, MWWRD purchased property located directly south of the existing operations (the subject property in this application highlighted in red) as well as property located across the South Platte River in Adams County (highlighted in yellow). This second access is necessary in order to alleviate some of the increased traffic during their construction work and to ensure a safe and efficient evacuation of the site in case of emergency. Therefore, the applicant has voluntarily submitted this application and its corresponding application *S-574-11* in order to unify their property in Commerce City under one legal description and one designated zone district.

Analysis:

In reviewing the application that has been submitted by the applicant, DRT concluded that it is in the best interest of the City to have one zoning designation on property and the Team determined that some of the benefits for having a single designation include:

1. A clearly identified set of uses.
2. A clearly identified set of bulk standards.
3. A compatibility of uses.
4. Predictability for future development.

In addition to analyzing the benefits for having a unified zoning, DRT also used the Comprehensive Plan to guide their recommendation. The Comprehensive Plan map identifies this site for “Utility” uses. Within the Comprehensive Plan, the “Utility”

designation is intended for *“Land uses for utilities, such as wastewater facilities, electricity, and active and future landfills. May include water storage.”* After reading this language, DRT concluded that the use of the property as a wastewater treatment facility was in conformance with the Comprehensive Plan.

Given how important it was to DRT that there be a single zoning designation on the property, the fact that the use of the property is in alignment with the Comprehensive Plan, and the fact that the applicant has voluntarily submitted this application there was tremendous support for the request.

Outside Agency Review:

Staff referred this application to several outside agencies. The one agency that responded was The Farmer’s Reservoir and Irrigation Company (FRICO). In their response FRICO wanted to ensure that their access to the ditch would remain the same. MWWRD has responded to FRICO ensuring the existing access would remain and FRICO has indicated that they are satisfied with their continued access.

Recommendation:

Based on staff’s review of the information and the comments provided by outside agencies, the Development Review Team is recommending approval of the request to rezone the subject property to an I-3 designation. The applicant has submitted this application for review voluntarily and has done so in order to unify their property under one zoning designation.

| Criterion | Finding | Rationale |
|--|---------|---|
| 1. The proposed zone district and allowed uses are consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city. | Yes | The comprehensive plan calls this area out for utility type uses, which is consistent with the use of the property as a water treatment facility. As a matter of best practices, the City strives for unified zoning on property. This application is intended to unify the zoning of the applicant’s property. |
| 2. The proposed zone district and allowed uses are compatible with proposed development, surrounding land uses and the natural environment. | Yes | The proposed rezoning for the new property to an I-3 designation is consistent with the existing property’s I-3 zoning designation. The area is surrounded by heavy intensity industrial zoning and uses, which is consistent with the requested I-3. |
| 3. The proposed zone district will have, or future development can provide, efficient and adequate provision of public services, including but not limited to, water, sewerage, streets, and drainage. | Yes | The area is already developed and the site is already serviced by adequate utilities such as water, sewer, streets and drainage. |
| 4. The proposed zone district will have, or future development can provide, efficient and adequate provision of public uses including but not limited to, parks, schools, and open space. | Yes | This zone district is heavy intensity industrial which is consistent with the uses in the area. Any future development of the property will be required to provide adequate provisions for public uses. |

| Criterion | Finding | Rationale |
|---|---------|---|
| 5. There is a community need for the zoning district in the proposed location, given need to provide or maintain a property mix of uses both within the city and the immediate area of the proposed uses. | Yes | The area around the subject property is heavy industrial in nature which is consistent with the requested I-3 zone district. In addition, approving this request would unify the zoning for the MWWRD property. |
| 6. The area for which zone change is requested has changed or is changing to such a degree that it is in the public interest to allow a new use or density. | Yes | The approval of this application would not create a new use, instead it would unify the zoning for the property and it will be consistent with the surrounding area. |

Department and Agency Review

The following City departments, divisions, and outside agencies have reviewed the request:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Planning Division |
| <input checked="" type="checkbox"/> Economic Development Division | <input checked="" type="checkbox"/> Police Department |
| <input checked="" type="checkbox"/> Engineering Division | <input checked="" type="checkbox"/> South Adams Water & Sanitation |
| <input checked="" type="checkbox"/> Fire Department | <input checked="" type="checkbox"/> Tri-County Health |
| <input checked="" type="checkbox"/> Neighborhood Services Division | <input checked="" type="checkbox"/> Other: FRICO |

Alternatives

One option would be to forward the request to City Council with a favorable recommendation; a second option would be to forward the request subject to conditions; a third option would be to forward the request with an unfavorable recommendation.

Development Review Team Recommendation

The Development Review Team recommends that the Planning Commission forward the request for *rezoning* (Z-894-11) to City Council with a favorable recommendation, subject to the findings of fact and the following advisories.

Advisories

- Any new construction, interior tenant finish work, paving, fences, walls, signs, and/or buildings on the site shall require a building permit.
- The applicant is required to meet the standards of the 2003 International Building Code (IBC) and 2003 International Fire Code prior to occupancy.

Recommended Motion:

“I move that Planning Commission enter a finding that the rezoning requested in Z-894-11 meets the criteria of the Land Development Code and based upon such finding, forward a favorable recommendation to City Council to approve the requested rezoning.”

**REZONING
SUBMITTAL ITEM D
NARRATIVE EXPLANATION**

Metro Wastewater Reclamation District (“Metro”) recently acquired three parcels of land (the “Rezoning Property”) currently zoned I-1 Light-Intensity Industrial District and containing approximately 2.0575 acres total area, located immediately south of its Robert W. Hite Treatment Facility at 6450 York Street (RWHTF). The Rezoning Property is currently vacant, but a portion of it was used previously for railroad purposes. This Zone Change application is filed along with a subdivision application to incorporate the Rezoning Property into Lot 1, Block 1, Metro District Subdivision Filing No. 1 (“Lot 1”). Lot 1 is currently zoned I-3 Heavy-Intensity Industrial District. The purpose of these applications is (i) to incorporate the newly-acquired Rezoning Property into Lot 1 to enable Metro to develop its property in an efficient and rational way that could not be accomplished if interior lot lines and their corresponding setbacks were present, (ii) to afford lawful access for the Rezoning Property to a public street (York Street), and (iii) to unify the zoning classification of Lot 1 after the Rezoning Property is incorporated into it. The actual uses to which Metro intends to put the Rezoning Property consist of the construction and operation of a private roadway and the eastern section of a vehicular bridge across the South Platte River, which will furnish an alternative access point to Metro treatment facilities already existing on Lot 1. These new uses are incidental to the existing uses on Metro’s property, which are industrial in character.

Both this Zone Change Application and the accompanying subdivision application are prompted by Metro’s need as a result of regulatory and other pressures to add new treatment facilities at the RWHTF. Additionally, the Regional Transportation District (RTD) has selected a preferred route for the planned North Metro Corridor light rail project that runs through Lot 1. Both of these factors have made it necessary for Metro to relocate some of the support operations presently located on Lot 1 to new areas. One such area is the property immediately across the South Platte River to the west. The Rezoning Property and the facilities to be installed on it are necessary to provide access to that property.

The proposed zone change and development meet the City’s criteria for zone changes in the following respects:

1. The zone change is consistent with the policies and goals of the Comprehensive Plan.

The Future Land Use Map in the Comprehensive Plan identifies the Rezoning Property as being for utilities, which is what Metro is and what its use of the property will be. It identifies adjoining property to the east as being for general industry. The Comprehensive Plan also includes the Rezoning Property in the Southern Industrial Focus Area. Policies listed for the Southern Industrial Focus Area include retaining the general industrial use of the area, among others. Metro’s proposed zone change and development of the Rezoning Property are clearly consistent with these policies and goals.

2. The proposed zone change is compatible with surrounding land uses and the natural environment.

The adjoining property to the north is zoned I-3 Heavy Intensity Industrial District and is used by Metro for wastewater treatment purposes, which is a heavy-intensity industrial use. The Suncor Refinery to the east and Packaging Corporation of America to the south of the Rezoning Property are used for general industrial purposes and are designated for such uses in the Future Land Use Map of the Comprehensive Plan. The area to the west of the Rezoning Property is in unincorporated Adams County but is also used for industrial purposes, including the Public Service Company's Cherokee Generating Station. The purpose of the zone change application is primarily to unify the zoning classification of Lot 1 after the Rezoning Property is incorporated into it.

3. The proposed zone change will have no impact on providing efficient and adequate public services, including but not limited to water, sewerage, streets, and drainage.

The proposed zone change and Metro's development on the Rezoning Property will have no material impact on transportation and drainage facilities in Commerce City, and will not generate any new demands for water or sewer service.

4. The proposed zone change will have no impact on providing efficient and adequate public uses, including but not limited to parks, schools and open space.

The proposed zone change and Metro's development on the Rezoning Property will have no impact upon public uses such as parks, schools or open space, as they will not bring new residents or other users of such facilities to the Rezoning Property.

5. There is a community need for the proposed zone change, taking into account the need to provide or maintain a proper mix of uses both within the city and the immediate area.

The proposed zone change meets the community needs primarily in that it creates a unified zoning classification for all of the property within the Metro District Subdivision Filing No. 1, which is an important goal of the City. Further, the proposed zone change is consistent with and meets the intent of the City's Comprehensive Plan. It will also facilitate and promote Metro's ability to respond to pressures from outside influences for the additional property it needs to provide effective and efficient wastewater treatment services for the entire metropolitan area.

6. There is no real change in the area such that a zoning classification permitting new types of uses would be in the public interest.

The area for which the zone change is requested has changed or is changing to such a degree that it is in the public interest to allow a new use or density. Because of changing regulatory requirements mandating additional treatment capacity at the RWHTF and RTD's selection of part of Lot 1 for the North Metro Corridor light rail project, Metro has had to seek additional property for support facilities currently located on Lot 1. The Rezoning Property is a necessary part of Metro's response to changing conditions in that it will provide access to the support facilities. While the zoning classification sought by Metro is necessary to respond to changing conditions, it will not really result in any new types of uses in and will not change the existing character of the Rezoning Property or its surroundings. Further, it

will have the beneficial effect of unifying the zoning classification of all of the property located within the Metro District Subdivision Filing No. 1.



Recently purchased land to be consolidated and rezoned

Existing site,
zoned I-3

South Platte
River

Commerce City

500 feet 100 m

Image courtesy of USGS © 2010 Microsoft Corporation © AND © 2010 NAVTEQ

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S-574-11 & Z-894-11

Location: 6450 York Street

Applicant: Metro Wastewater
Reclamation District
(MWWRD)

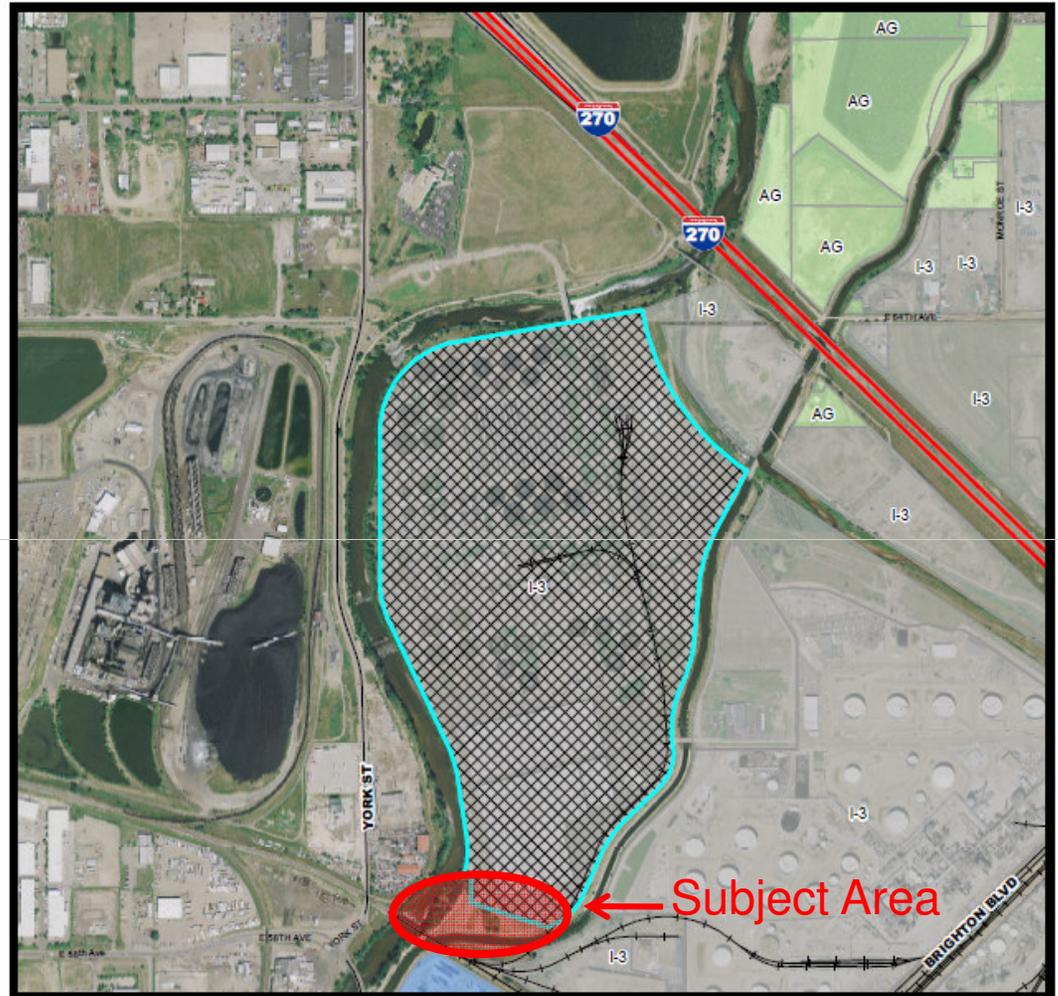
Request: Unify existing & new
site via Consolidation Plat
and Rezoning

Partial V-Map



Commerce City Vicinity Map

S-574-11 & Z-894-11



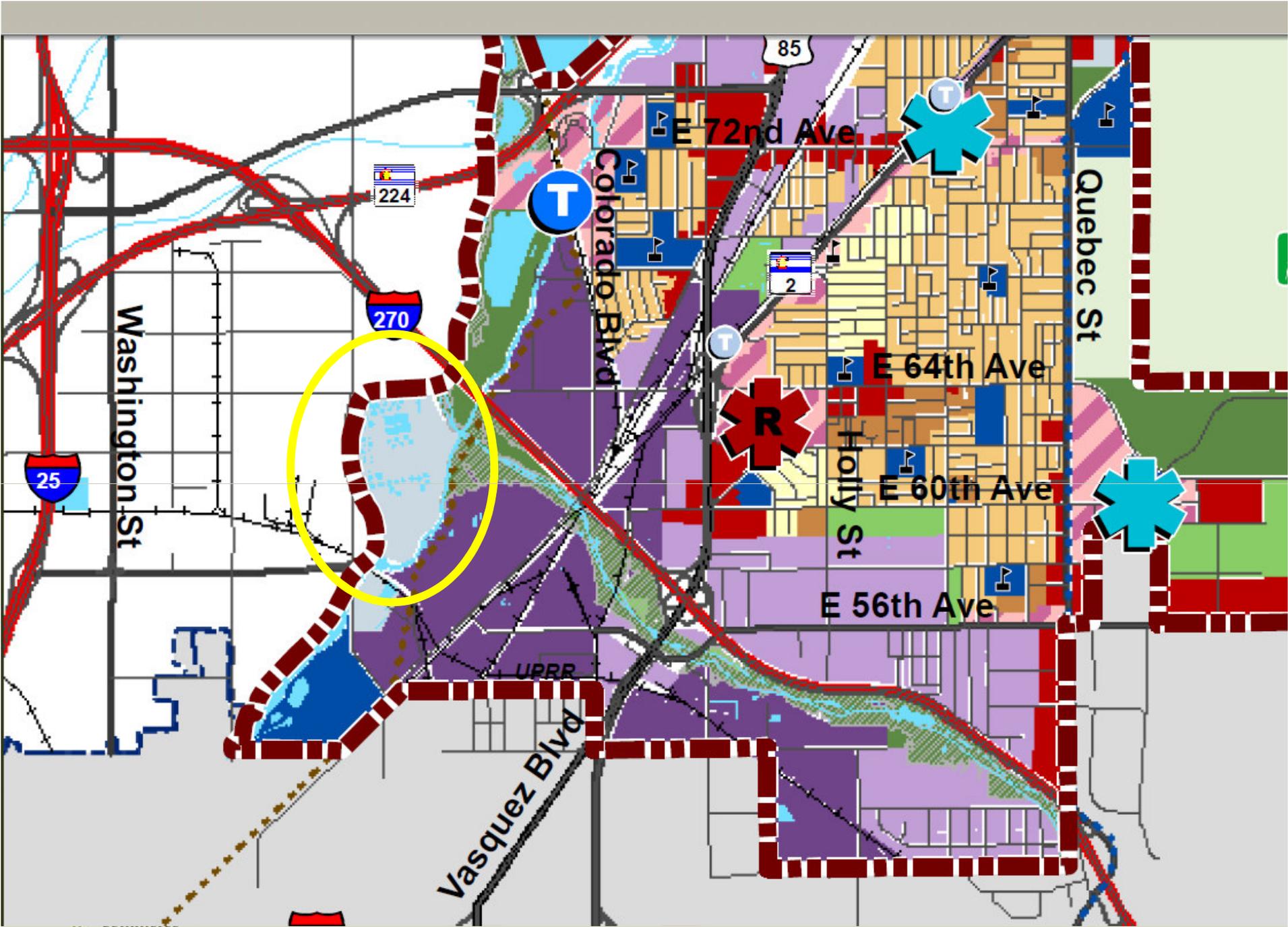
Area shown is approx. 1 1/4 miles square

PIN: '182512201012'

Prepared By: Paul Workman
Printing Date: December 28, 2010
File: S-574-11 & Z-894-11
Commerce City Planning Department

Legend

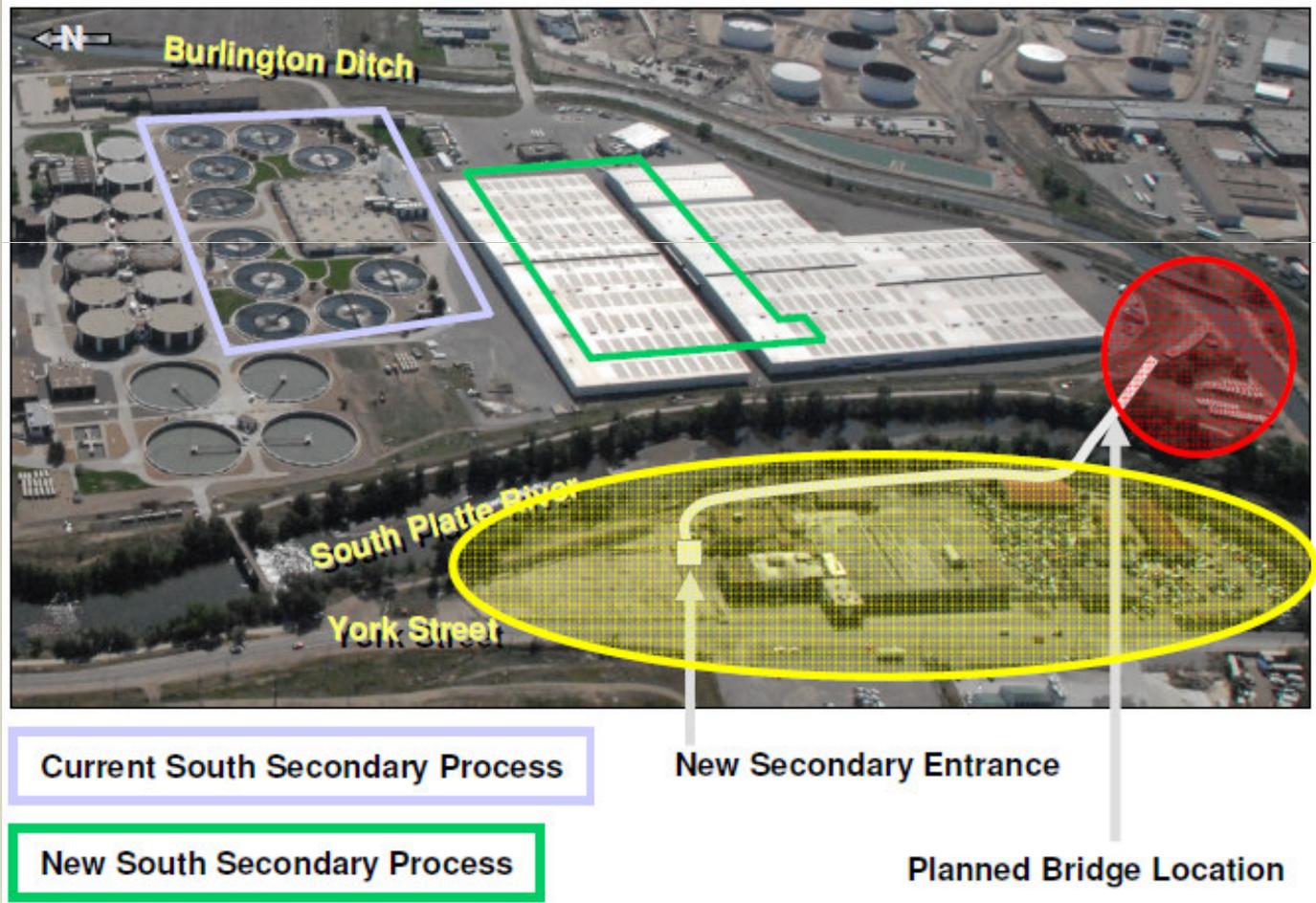
- Subject Property
- AG - Agricultural
- PUBLIC - Public Zone
- ADOO - Unincorporated Adams County
- I-3 - Heavy Industrial





Site History

- CU-37-93-10:
 - Allowed changes to Development Plan



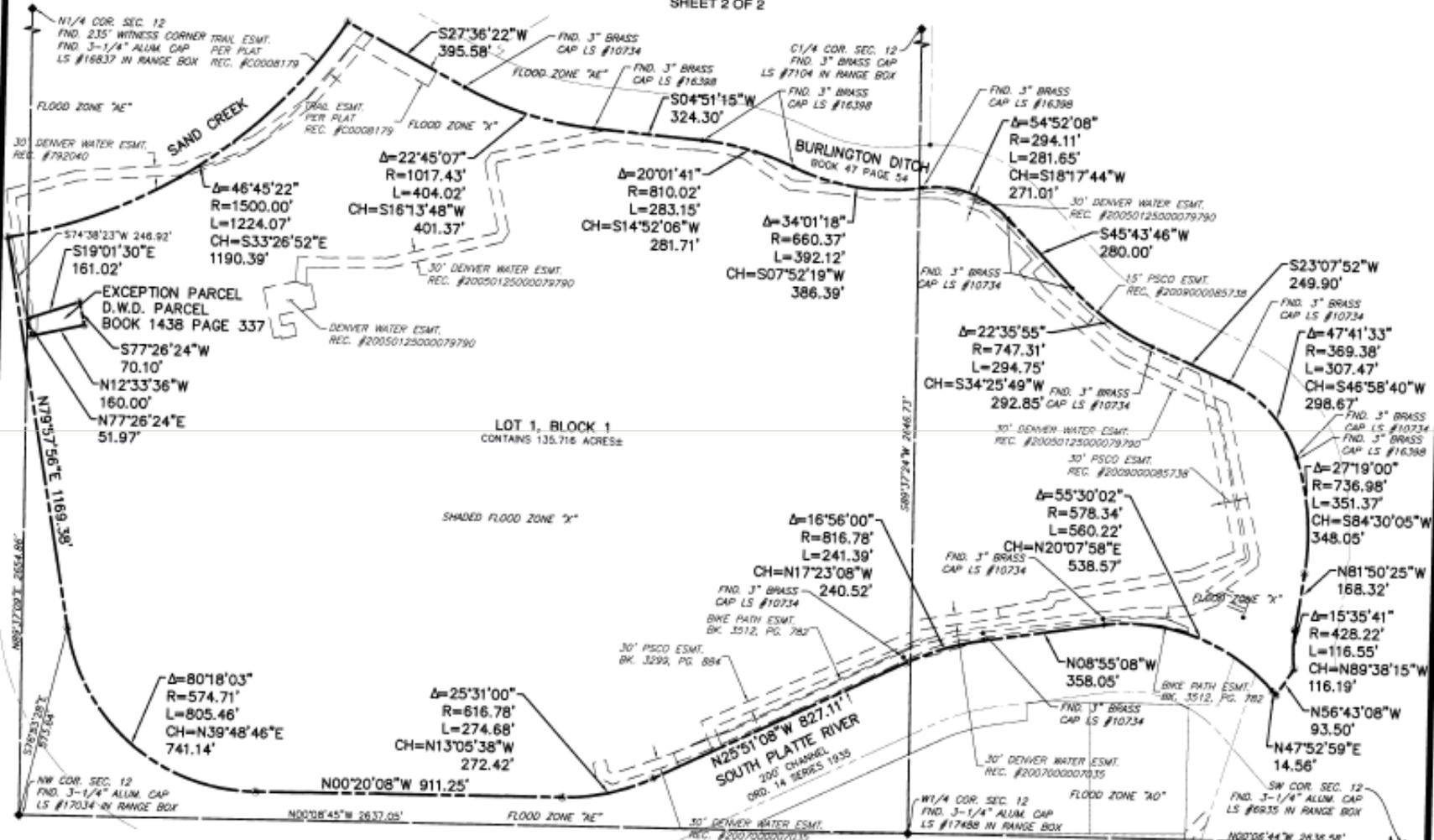
Requests

- Consolidation Plat:
 - Unify property under 1 legal description
- Rezoning:
 - Unify zoning of all property

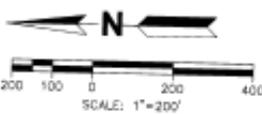
METRO DISTRICT SUBDIVISION FILING NO. 1 REPLAT

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 12 AND THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH PRINCIPAL MERIDIAN
CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO

SHEET 2 OF 2



LOT 1, BLOCK 1
CONTAINS 135.716 ACRES



LEGEND

- PROPERTY LINE
- RIGHT-OF-WAY SECTION LINE
- EASEMENT
- SET #4 REBAR W/ CAP LS #23899
- SHADED FLOOD ZONE "X"
- FLOOD ZONE "AE"
- FLOOD ZONE "AD"

FLOOD CERTIFICATION

BY GRAPHIC PLOTTING ONLY THIS PROPERTY IS IN FLOOD ZONE "X", SHADED ZONE "X", ZONE "AE" AND ZONE "AD" PER THE FLOOD INSURANCE RATE MAP FOR THE COUNTY OF ADAMS, STATE OF COLORADO, PANEL NUMBER'S 08001C0604H AND 08001C0612H, DATED MARCH 05, 2007.

REV. OCTOBER 22, 2010
REV. OCTOBER 14, 2010
SEPTEMBER 3, 2010

MARTIN / MARTIN
CONSULTING ENGINEERS

1800 WEST DELAWARE AVE.
P.O. BOX 191300
LAKENHEIM, CO 80018
303.431.6100
FAX 303.431.4888

PC Analysis

- Consolidation Plat:
 - Plat meets I-3 lot standards
 - Unifying the lots:
 - Eliminates future confusion
 - Eliminates future permitting issues

PC Analysis

- Rezoning:
 - Compliance with Comp Plan
 - Benefits of Unification
 - Consistent uses
 - Consistent bulk standards
 - Compatibility of uses
 - Predictability

Recommendation:

- On January 4th 2011, Planning Commission voted to send a recommendation of **approval** for both applications to City Council.



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 24 Jan 2011

Number of Attachments:

Subject: Grant Recognition - Emergency Management Special Project #2

Presenter: Phil Baca / Leigh Ann Noell

Recommended City Council Action:

Staff recommends City Council approve Ordinance No. 1852 on the Consent Agenda.

Summary Statement:

- Grant recognition for funds received from Colorado Division of Emergency Management.
- First reading of this ordinance was read on February 7, 2011. It is now being brought to City Council for Second Reading/Consent.

Next Steps:

Expenditure Required: \$10,000

Source of Funds: Colorado Division of Emergency Management

Policy Issue: N/A

Alternative: The City could refuse the funds and complete the project on their own or choose not to proceed.

Background Information:

Colorado Division of Emergency Management provided an opportunity to apply for out-of-cycle Emergency Management grant support. This grant will provide funding to replace the current computer workstations in the Emergency Operations Center

located in the Commerce City Police Department.

ORDINANCE NO. 1852

INTRODUCED BY: CARSON, JOHNSON, MCELLOWNEY, MORENO, NATALE, SNYDER, TETER

AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE COLORADO DIVISION OF EMERGENCY MANAGEMENT GRANT IN THE AMOUNT OF \$10,000 FOR THE REPLACEMENT OF WORKSTATIONS IN THE EMERGENCY OPERATIONS CENTER AND THE AUTHORIZATION OF THE EXPENDITURE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

An amendment is made to the 2011 budget of the City of Commerce City, Colorado for the recognition of the funds from the Colorado Division of Emergency Management Grant in the amount of \$10,000 to be used for replacement workstations in the emergency operations center. (Fund 180).

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF FEBRUARY, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF MARCH, 2011.

CITY OF COMMERCE CITY, COLORADO

By: _____
PAUL NATALE, MAYOR

ATTEST

Laura J. Bauer, City Clerk



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 24 Jan 2011

Number of Attachments:

Subject: Grant Recognition - CDOT/DUI 2011

Presenter: Phil Baca / Leigh Ann Noell

Recommended City Council Action:

Staff recommends City Council approve Ordinance No. 1853 on Second Reading.

Summary Statement:

- Recognition of grant funds received from the Colorado Department of Transportation for 2011 DUI enforcement.
- First reading of this ordinance was read on February 7, 2011. It is now being brought to City Council for Second Reading/Consent.

Next Steps: Move forward with grant.

Expenditure Required: \$40,000

Source of Funds: Colorado Department of Transportation

Policy Issue: N/A

Alternative: The City could refuse the funds and complete the project on their own or choose not to proceed.

Background Information:

Colorado Department of Transportation, Office of Traffic Safety, offers reimbursement throughout the year for holiday DUI enforcement. The following enforcement periods will be reimbursed: Super Bowl Weekend; St. Patrick's Day; Prom; Memorial Day; Checkpoint Colorado; 4th of July; Labor Day; Fall Festivals;

Halloween Weekend; Thanksgiving Weekend; Holiday Parties; and, New Year's Eve. This ordinance will include all 2011 enforcement periods.

ORDINANCE NO. 1853

INTRODUCED BY: CARSON, JOHNSON, MCELLOWNEY, MORENO, NATALE, SNYDER, TETER

AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE COLORADO DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF \$40,000 FOR (DUI) ENFORCEMENT EFFORTS AND THE AUTHORIZATION OF THE EXPENDITURE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

An amendment is made to the 2011 Budget of the City of Commerce City, Colorado for the recognition of the funds from the Colorado Department of Transportation Grant in the amount of \$40,000 to be used for Driving under the Influence (DUI) enforcement efforts (Fund 180).

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF FEBRUARY, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF MARCH, 2011.

CITY OF COMMERCE CITY, COLORADO

By: _____
PAUL NATALE, MAYOR

ATTEST

Laura J. Bauer, City Clerk



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 02 Mar 2011

Number of Attachments: 1

Subject: RESOLUTION OPPOSING XCEL SOLAR REBATE REDUCTION

Presenter: TBD

Recommended City Council Action:

Support resolution.

Summary Statement:

On February 16th, 2011 Xcel Energy announced that they filed a request with the Public Utilities Commission to reduce the current Solar Rebate from \$2.00 per watt to \$0.25 per watt. At the same time, Xcel lowered the amount they pay for the Renewable Energy Credits from \$0.35 to \$0.01 per watt. These two actions account for an 88% decrease in the total rebate received by customer's installing solar PV. The rebate program is also closed until the Public Utility Commission hearing in May. If Xcel's actions are approved by the PUC, the solar industry predicts that as much as 75 percent of these jobs will be lost by the end of this year, causing Colorado to lose valuable solar industry infrastructure that took five years to build. Commerce City is home to one solar installation company, Douglass Roofing. Douglass has reported to us that job loss for them will be immediate if this proposal moves forward. Commerce City has taken huge strides in the past few years to promote clean energy and new jobs. Commerce City urges the PUC to support small business and reject Xcel Energy's request to dramatically reduce the solar rebate.

Next Steps:

Expenditure Required: 0

Source of Funds:

Policy Issue: Economic Development and Sustainability.

Alternative:

Background Information:

On February 16th, 2011 Xcel Energy announced that they filled a request with the Public Utilities Commission to reduce the current Solar Rebate from \$2.00 per watt to \$0.25 per watt. At the same time, Xcel lowered the amount they pay for the Renewable Energy Credits from \$0.35 to \$0.01 per watt. These two actions account for an 88% decrease in the total rebate received by customer's installing solar PV. The rebate program is also closed until the Public Utility Commission hearing in May.

Closing the Solar Rewards program not only prevents customer's from accessing the rebates paid for by all Xcel customers, but also stops solar business dead in their tracks. Installers cannot sign up new customers for the rebate program, nor can customers access the rebates which are part of Amendment 37 approved by voters in 2005.

Xcel energy, for the past three and half years, has collected a percentage of every customer's utility bill to pay for a portion of the solar rebates. Currently Xcel is collecting 2% of each customer's bill.

The rebate program had been working well. Spurred by the passage of Amendment 37, there are now roughly 5,300 solar jobs and more than 400 solar businesses in Colorado. Colorado is now the #2 state in the US for solar jobs per capita.

If Xcel's actions are approved by the PUC, the solar industry predicts that as much as 75 percent of these jobs will be lost by the end of this year, causing Colorado to lose valuable solar industry infrastructure that took five years to build.

Commerce City is home to one solar instillation company, Douglass Roofing. Douglass has reported to us that job loss for them will be immediate if this proposal moves forward.

Commerce City has taken huge strides in the past few years to promote clean energy and new jobs.

Commerce City urges the PUC to support small business and reject Xcel Energy's request to dramatically reduce the solar rebate.

**RESOLUTION OPPOSING XCEL REQUEST TO REDUCE
SOLAR REBATE
NO. 2011-15**

WHEREAS, the Public Service Company of Colorado (Xcel Energy) recently reduced the amount they pay for the Renewable Energy Credits from \$0.35 to \$0.01 per watt and filed a formal request with the Colorado Public Utilities Commission to reduce the current Solar Rebate from \$2.00 per watt to \$0.25 per watt; and

WHEREAS, if approved, Xcel's actions would result in an 88% decrease in the total rebate received by customer's installing solar photovoltaic; and

WHEREAS, the rebate program, spurred by the passage of Amendment 37, resulted in 5,300 solar jobs and more than 400 solar businesses in Colorado; and

WHEREAS, the global economic crisis and recession made it difficult to operate businesses of all shapes and sizes, restricting access to capital, delaying hiring decisions and decreasing personal spending; and

WHEREAS, municipalities such as Commerce City are equally affected by these economic uncertainties and ability to provide services and amenities; and

WHEREAS, Commerce City implemented unique incentives to support new and existing business investment during these challenging economic times, with additional funding if "green" improvements such as solar energy are included; and

WHEREAS Commerce City has taken tremendous strides to become a sustainable municipality and attract clean energy industries; and

WHEREAS, it is anticipated as much as 75 percent of the solar jobs created by the rebate program will be lost by the end of this year, if not sooner should the Public Utilities Commission approve Xcel's request, causing Colorado to lose valuable solar industry infrastructure that took five years to build; and

WHEREAS this industry is important to Commerce City's long-term economic growth and development.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

1. The City of Commerce City, Colorado opposes the request made by Xcel Energy to excessively reduce the amount of the Solar Rebate.
2. The City of Commerce City urges the Colorado Public Utilities Commission to reject Xcel Energy's request to reduce the amount of the Solar Rebate and

advance a more equitable agreement for rebate amounts that support the recovery of Colorado's economy in a more sustainable manner.

RESOLVED AND PASSED THIS _____ DAY OF _____, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, City Clerk



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 28 Feb 2011

Number of Attachments: 2

Subject: Resolution to Support RTD Sales Tax Initiative for Complete Build out of FasTracks

Presenter: Tom Acre, Deputy City Manager (Introduction) - RTD Staff Presentation

Recommended City Council Action:

Council direction regarding the potential sales tax ballot measure being discussed for the completion of FasTracks and potential formal action.

Summary Statement:

- Staff and RTD provided City Council an update and summary information regarding future funding scenarios at the February 14, 2011 City Council Meeting
- City Council provided direction to staff to bring a resolution back to City Council supporting a 4 tenths of a percent sales tax increase if RTD should place a question on an upcoming ballot for consideration.
- Staff provided an update on RTD FasTracks Funding to City Council on December 20, 2010
- At the December 20, 2010 City Council Meeting, Council gave direction and approval for the Mayor to sign a letter regarding use of the \$305 million in potential savings from the Eagle P3 Project encouraging RTD to use these funds to go toward completing FasTracks Corridor projects which have yet to receive funding such as the North Metro Line.
- Indication from RTD is \$90 million is being recommended to go toward the North Metro Line.
- Additional funding is required to complete the North Metro Line with in the time frame originally envisioned by the 2004 FasTracks vote.
- RTD has solicited input regarding if and when to go to the voters for a sales tax increase and if the increase should be 1/10ths, 2/10ths, 3/10ths, or 4/10ths of a percent.

- RTD Staff previously has recommended a 2/10ths of a percent increase based on earlier polling results.
- Recent information from polling indicates some support for a 4/10ths of a percent with a sunset provision and support complete build out of FasTracks sooner.
- RTD staff will present an update regarding FasTracks funding and completion scenarios.

Next Steps: Provide RTD with Commerce City's Resolution supporting a 4 tenths of percent sales tax increase if RTD Board should elect to move forward with a sales tax increase ballot question.

Expenditure Required: No expenditure is required.

Source of Funds: N//A

Policy Issue: Does City Council support a potential sales tax increase for the complete build out of FasTracks and at what level?

Alternative: Council could remain neutral regarding this issue and not pass the Resolution.

Background Information:

Attached is a copy of the presentation made by RTD at the February 14, 2011 City Council meeting and a draft of the resolution.

**RESOLUTION REGARDING SUPPORT FOR A TAX INCREASE TO FUND COMPLETION
OF FASTRACKS INCLUDING THE NORTH METRO CORRIDOR FROM DENVER
UNION STATION TO 160TH AVENUE, BY 2019
NO. 2011-12**

WHEREAS, the 2004 FasTracks program included construction of passenger rail in six new corridors: West, Northwest Rail, North Metro, East, I-225, and Gold; as well as the extension of existing passenger rail in the Central, Southeast and Southwest Corridors; US 36 Corridor Bus Rapid Transit (BRT); Denver Union Station; enhanced bus/rail connection service; and construction of commuter rail, light rail and bus maintenance facilities; and

WHEREAS, the FasTracks projects currently under construction or expected to be under construction over the next eighteen months include: West Corridor, East Corridor; Gold Line; Northwest Rail to the 71st Station in south Westminster; a segment of US 36 BRT-Phase 2; Elati Light Rail Maintenance Facility; Commuter Rail Maintenance Facility; and Denver Union Station; and

WHEREAS, the passenger rail corridors remaining to be funded include: the North Metro Corridor, the Northwest Rail Corridor from the 71st Station in south Westminster to Longmont; the US 36 Corridor BRT from Wadsworth to Table Mesa Drive; the I-225 Corridor from the Nine-Mile Station to the end of the line; and the extension of the existing Central, Southeast and Southwest Corridors ("Phase 2 Corridors"); and

WHEREAS, FasTracks has insufficient funds to construct the unfunded passenger rail corridors in accordance with the timeframe established in the 2004 Plan without additional revenues; and

WHEREAS, the RTD staff has presented an implementation package designed to complete the entire FasTracks program by 2019 based on the assumption that a new additional four tenths of a cent RTD sales tax is approved by the voters; and

WHEREAS, the new additional four tenths of a cent RTD sales tax would be allocated to the passenger rail corridors remaining to be funded as noted previously and the revenues from the new tax would be sufficient to complete the construction and not require additional funding through the New Starts Grant Fund program; and

WHEREAS, the new additional tax would include a sunset provision wherein half of the four tenths of a cent new tax would sunset between 2033 and 2035 and the remaining tax would sunset between 2041 and 2043; and

WHEREAS, the North Metro Corridor is an integral part of FasTracks and will provide a key transportation alternative for the north metro area to access the entire Denver metro area; and

WHEREAS, by 2035, over 24,500 riders per day are expected to use the North Metro Corridor and account for about 20-25% of the entire ridership expected per day on FasTracks; and

WHEREAS, the North Metro Corridor will also serve as the connection to link planned passenger rail service from Fort Collins into the Denver area; and

WHEREAS, the North Metro Corridor is planned to include transit stations in the City of Commerce City at 72nd Avenue, and at 88th Avenue, 104th Avenue, 112th Avenue, Eastlake, 144th Avenue and 160th Avenue which are logical locations for transit oriented development; and

WHEREAS, the City of Commerce City supports the completion of the entire FasTracks, in general, and the North Metro Corridor, in specific, by 2019; and

WHEREAS, RTD staff has indicated this can be accomplished with an additional new four-tenths of a cent sales tax; and

WHEREAS, the City of Commerce City desires to express its support for the additional new four-tenths of a cent sales tax to complete the entire FasTracks system by 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF COMMERCE CITY AS FOLLOWS:

1. That the City of Commerce City supports an RTD proposal to submit a four-tenths of a cent additional new sales tax to the voters as early as November 2011 in order to complete the entire FasTracks system by 2019.
2. That the additional new sales tax revenues and bonds supported by the tax shall be used exclusively to complete the remaining unfunded corridors.
3. That the proposed new sales tax include provisions which would sunset half of the tax (0.2%) between 2033 and 2035 with the remainder new tax sunsetting between 2041 and 2043.
4. That RTD include language in the ballot question and/or enter into an agreement with jurisdictions within the RTD District which provides assurance that the new revenues will be used exclusively to complete the remaining unfunded corridors and that the individual corridors within the Phase 2 corridors receive their appropriate share of these revenues to ensure the money is available to complete the improvement.

RESOLVED AND PASSED THIS 7th DAY OF MARCH, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



**Annual Program Evaluation (APE)
Presentation to City Council of
Commerce City**

Regional Transportation District

February 14, 2011

Tonight's Presentation

- **Accomplishments to date**
- **Overview of implementation packages**
- **Staff recommendation**
- **Additional Analysis**
- **Next steps**

Accomplishments to Date

- **48 miles of new rail lines are currently in construction or under contract to begin construction**
- **U.S. 36 BRT Corridor Phase I: First FasTracks project was completed in May 2010**
- **Eight projects will be under construction this year:**
 - **Elati Light Rail Maintenance Facility:** Complete in 2011
 - **West Corridor:** 72% complete
 - **Denver Union Station:** 30% complete
 - **East Corridor (to DIA):** Broke ground in August 2010
 - **Commuter Rail Maintenance Facility:** Groundbreaking in 2011
 - **Gold Line:** Groundbreaking in 2011
 - **Northwest Rail (to Westminster):** Groundbreaking in 2011
 - **US 36 BRT Phase 2 Projects (Table Mesa Pedestrian Bridge and Queue Jumps):** Groundbreaking in 2011

Accomplishments to Date (cont.)

- **Environmental processes complete**
 - East Corridor
 - Gold Line
 - I-225 Corridor
 - US 36 BRT
 - Southwest Corridor Extension
 - Southeast Corridor Extension
 - Central Corridor Extension
 - Northwest Rail
- **Environmental process wrapping up on final corridor – North Metro**
- **RTD signed agreements with BNSF and UPRR**
- **\$308 M federal New Starts funding for West Corridor**
- **Federal loans for Denver Union Station**
 - RRIF loan - \$155 M
 - TIFIA loan - \$146 M
- **Submitted all information required by FTA to apply for \$1.03 B federal grant for the Eagle Project**

Chronology

- **Summer 2010: Competitive bid for the Eagle Project lower than internal estimates**
- **Fall 2010: Financial plan updated, determining that, absent new revenues, \$305 million is available for partially funded FasTracks projects**
 - This is not “new” money, but funds that can be used to help reduce the current FasTracks budget gap
- **November – December: Stakeholder input process on how to proceed**

Overview of Implementation Packages

- **Three packages were originally developed:**
 - #1: Assumes a successful 0.4% sales and use tax election in 2012 (consistent with the currently adopted FasTracks financial plan)
 - #2: Assumes a successful 0.2% sales and use tax election in 2011
 - #3: Assumes a successful 0.1% sales and use tax election in 2011
- **A separate model run was completed for 0.3% and was presented separated to the RTD Board of Directors on February 8th**
- **Each implementation package includes assumptions for expending the short-term funding available (\$305 M) and a plan for completing the entire program prior to 2042**

Implementation Package - #1 (0.4%) Overview

- **Successful 0.4% sales and use tax election in 2012 (consistent with the currently adopted financial plan)**
- **Assumes Small Starts funding for Southeast Corridor Extension¹**
- **Does not include additional New Starts funding**
 - Time required to apply for New Starts would extend program completion past 2019

| Corridor | Assumptions for Expending the \$305 M |
|------------------------------|--|
| U.S. 36 | Funding Commitment to Complete Managed Lanes to Interlocken (\$90 M) |
| North Metro | Complete Segment from DUS to Stock Show Complex (\$90 M) |
| I-225 | Complete Segment from Nine Mile to Iliff (\$90 M) |
| Northwest Rail | Completion of Longmont Station (\$17 M) |
| Central Corridor | Additional technical analysis (\$0.5 M) |
| Southeast Corridor Extension | Final Design and Federal Environmental Process (\$9 M) |
| Southwest Corridor Extension | Relocation of Union Pacific Railroad Track (\$8.5 M) |

¹This corridor is assumed to be the most competitive given current evaluation criteria; assumption may change once final evaluation criteria are released by FTA

²These funds are in addition to the \$30M commitment of remaining funds made in 2010 to US 36 prior to the stakeholder input process

Key Milestones – Implementation Package #1 (0.4%)

| Year | % Complete of Entire Program | Program Elements Complete By This Date |
|------|------------------------------|--|
| 2013 | 56% | <ul style="list-style-type: none"> • West Corridor • Light Rail Maintenance Facility • U.S. 36 completion of all Phase 1 projects |
| 2016 | 95% | <ul style="list-style-type: none"> • Denver Union Station • Eagle Project • I-225 segment from Nine-Mile to Iliff • Southwest Corridor relocation of Union Pacific Railroad • Southeast Corridor submittal of Small Starts application • Longmont end-of-line park-n-Ride • North Metro segment to 72nd • Full financial commitment to U.S. 36 Phase 2 • Central Corridor Extension |
| 2019 | 100% | <ul style="list-style-type: none"> • I-225 entire corridor • Southeast Corridor Extension • North Metro entire corridor • Southwest Corridor Extension • Northwest Rail Corridor |

Implementation Package - #2 (0.2%) Overview

- **Successful 0.2% sales and use tax election in 2011**
- **Assumes Small Starts funding for Southeast Corridor Extension¹**
- **Assumes New Starts funding for North Metro¹**
 - Complete DUS to 72nd with local funds first to leverage funding available in the shorter term and to increase competitiveness of the rest of the corridor from a New Starts perspective

| Corridor | Assumptions for Expending the \$305 M |
|------------------------------|---|
| U.S. 36 | Funding Commitment to Complete Managed Lanes to Interlocken (\$90 M) ² |
| North Metro | Complete Segment from DUS to Stock Show Complex (\$90 M) |
| I-225 | Complete Segment from Nine Mile to Iliff (\$90 M) |
| Northwest Rail | Completion of Longmont Station (\$17 M) |
| Central Corridor | Additional technical analysis (\$0.5 M) |
| Southeast Corridor Extension | Final Design and Federal Environmental Process (\$9 M) |
| Southwest Corridor Extension | Relocation of Union Pacific Railroad Track (\$8.5 M) |

¹This corridor is assumed to be the most competitive given current evaluation criteria; assumption may change once final evaluation criteria are released by FTA

²These funds are in addition to the \$30M commitment of remaining funds made in 2010 to U.S. 36 prior to the stakeholder input process

Key Milestones – Implementation Package #2 (0.2%)

| Year | % Complete of Entire Program | Program Elements Complete By This Date |
|------|------------------------------|--|
| 2013 | 56% | <ul style="list-style-type: none"> • West Corridor • Light Rail Maintenance Facility • U.S. 36 completion of all Phase 1 projects |
| 2016 | 75% | <ul style="list-style-type: none"> • Denver Union Station • Eagle Project • I-225 segment from Nine-Mile to Iliff • Southwest Corridor relocation of Union Pacific Railroad • Southeast Corridor submittal of Small Starts application • Longmont end-of-line park-n-Ride • North Metro segment to 72nd (in preparation of a New Starts application) • Full financial commitment to U.S. 36 Phase 2 |
| 2019 | 80% | <ul style="list-style-type: none"> • I-225 entire corridor • New Starts submittal for North Metro • Southeast Corridor Extension |
| 2024 | 91% | <ul style="list-style-type: none"> • North Metro entire corridor • Southwest Corridor Extension • Central Corridor Extension |
| 2027 | 100% | <ul style="list-style-type: none"> • Northwest Rail Corridor |

Implementation Package - #3 (0.1%) Overview

- **Successful 0.1% sales and use tax election in 2011**
- **Assumes Small Starts funding for Southeast Corridor Extension¹**
- **Assumes New Starts funding for North Metro¹**
 - Complete DUS to 72nd with local funds first to leverage funding available in the shorter term and to increase competitiveness of the rest of the corridor from a New Starts perspective

| Corridor | Assumptions for Expending the \$305 M |
|----------------|--|
| U.S. 36 | Funding Commitment to Complete Managed Lanes to Interlocken (\$90 M) |
| North Metro | Complete Segment from DUS to Stock Show Complex (\$90 M) |
| ±225 | Complete Segment from Nine Mile to Iliff (\$90 M) |
| Northwest Rail | Completion of Longmont Station (\$17 M) |

¹This corridor is assumed to be the most competitive given current evaluation criteria; assumption may change once final evaluation criteria are released by FTA

²\$18 M remaining out of \$305 M held as contingency

³These funds are in addition to the \$30M commitment of remaining funds made in 2010 to U.S. 36 prior to the stakeholder input process

Key Milestones – Implementation Package #3 (0.1%)

| Year | % Complete of Entire Program | Program Elements Complete By This Date |
|------|------------------------------|--|
| 2013 | 54% | <ul style="list-style-type: none"> • West Corridor • Light Rail Maintenance Facility • U.S. 36 completion of all Phase 1 projects |
| 2016 | 68% | <ul style="list-style-type: none"> • Denver Union Station • Eagle Project • I-225 segment from Nine Mile to Iliff • Longmont end-of-line park-n-Ride • North Metro segment to 72nd (in preparation of a New Starts application) • U.S. 36 completion of queue jumps, Table Mesa pedestrian bridge, and \$120 million contribution to managed lanes to Interlocken |
| 2022 | 79% | <ul style="list-style-type: none"> • I-225 entire corridor • New Starts grant submittal for North Metro |
| 2025 | 82% | <ul style="list-style-type: none"> • North Metro entire corridor |
| 2035 | 100% | <ul style="list-style-type: none"> • Full financial commitment to U.S. 36 Phase 2 • Northwest Rail Corridor • Southeast Corridor Extension • Southwest Corridor Extension • Central Corridor Extension |

Staff Recommendation – 2011 APE Financial Plan Approval

- **On January 25th, RTD staff recommended adopting a financial plan for the FasTracks program that assumes a successful 0.2% sales and use tax election in 2011**
 - Results in completion of the full FasTracks program by 2027 (15 years sooner than with no additional revenues)
- **This recommendation does not represent a decision or commitment at this time by the Board of Directors to place a sales and use tax increase on the ballot**

Results of Additional Analyses

Overview of 0.3% Sales and Use Tax Increase in 2011

- **Successful 0.3% sales and use tax election in 2011 – completes the entire program in 2024**
- **Assumes Small Starts funding for Southeast Corridor Extension¹**
- **Assumes New Starts funding for North Metro¹**
 - Complete DUS to 72nd with local funds first to leverage funding available in the shorter term and to increase competitiveness of the rest of the corridor from a New Starts perspective

| Corridor | Assumptions for Expending the \$305 M |
|------------------------------|---|
| U.S. 36 | Funding Commitment to Complete Managed Lanes to Interlocken (\$90 M) ² |
| North Metro | Complete Segment from DUS to Stock Show Complex (\$90 M) |
| I-225 | Complete Segment from Nine Mile to Iliff (\$90 M) |
| Northwest Rail | Completion of Longmont Station (\$17 M) |
| Central Corridor | Additional technical analysis (\$0.5 M) |
| Southeast Corridor Extension | Final Design and Federal Environmental Process (\$9 M) |
| Southwest Corridor Extension | Relocation of Union Pacific Railroad Track (\$8.5 M) |

¹This corridor is assumed to be the most competitive given current evaluation criteria; assumption may change once final evaluation criteria are released by FTA

²These funds are in addition to the \$30M commitment of remaining funds made in 2010 to U.S. 36 prior to the stakeholder input process

Key Milestones – 0.3% Sales and Use Tax Increase in 2011

| Year | % Complete of Entire Program | Program Elements Complete By This Date |
|------|------------------------------|--|
| 2013 | 56% | <ul style="list-style-type: none"> • West Corridor • Light Rail Maintenance Facility • U.S. 36 completion of all Phase 1 projects • Southeast Corridor Extension receives entry into Small Starts grant program |
| 2016 | 78% | <ul style="list-style-type: none"> • Denver Union Station • Eagle Project • I-225 segment from Nine-Mile to Iliff • Southwest Corridor relocation of Union Pacific Railroad • Longmont end-of-line park-n-Ride • North Metro segment to 72nd (in preparation of a New Starts application) • Full financial commitment to U.S. 36 Phase 2 |
| 2018 | 81% | <ul style="list-style-type: none"> • I-225 entire corridor • New Starts submittal for North Metro • Southeast Corridor Extension |
| 2020 | 84% | <ul style="list-style-type: none"> • Southwest Corridor Extension • Central Corridor Extension |
| 2023 | 99% | <ul style="list-style-type: none"> • North Metro entire corridor |
| 2024 | 100% | <ul style="list-style-type: none"> • Northwest Rail Corridor |

Financial Plan Approval – Next Steps

Financial Plan Approval – Next Step

- **March 8: Opportunity for public comment prior to RTD Board approval of the 2011 Financial Plan**
 - Approval of the financial plan will allow RTD staff to complete DRCOG Senate Bill 208 report
 - Presentation of additional public opinion research

Questions?



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 08 Feb 2011

Number of Attachments: 1

Subject: Resolution designating the City of Commerce City as the Designated Emergency Response Authority

Presenter: Alan Colon

Recommended City Council Action:

Approval of Resolution

Summary Statement:

This resolution would reassign the statutory duties of the Designated Emergency Response Authority from the South Adams County Fire Department to the City of Commerce City. The South Adams Fire Protection District Board of Directors supports this change.

Next Steps: First reading of amendment to the Emergency Plan Ordinance to reflect the reallocation of responsibilities.

Expenditure Required: None

Source of Funds: None

Policy Issue: None

Alternative: Resolution not adopted, South Adams Fire Department remains the Designated Emergency Response Authority.

Background Information:

N/A

**RESOLUTION DESIGNATING THE CITY OF COMMERCE CITY
AS DESIGNATED EMERGENCY RESPONSE AUTHORITY
NO. 2011-10**

WHEREAS, Colorado Revised Statute 29-22-102(3)(a) provides that the fire district having jurisdiction within the city limits of a municipality shall be the Designated Emergency Response Authority (“DERA”) unless such municipality passes an ordinance or resolution designating itself as the DERA; and

WHEREAS, the DERA has responsibility (1) for mitigation and remediation of released hazardous materials, (2) for ensuring that the responsible party (if identified) takes the necessary steps to remediate any releases of hazardous materials or pollutants, and (3) for billing the responsible party for any costs related to the release; and

WHEREAS, historically the Public Works Department of the City of Commerce City (“Commerce City”) has taken the responsibility for managing the cleanup and remediation of hazardous materials and pollutant spills, and has used Commerce City contractors to remediate spills when the generator of such spills cannot be identified in a timely fashion, with the result that Commerce City has initially incurred the cost of such remediation expense; and

WHEREAS, in the past the South Adams County Fire Protection District (the “Fire District”), because of its position as DERA, has been billed by Commerce City for such cleanup and remediation costs and the Fire District has, in turn, been responsible for billing and collecting the costs of response for all parties and agencies involved and reimbursing those expenses to Commerce City; and

WHEREAS, it is most expedient if Commerce City takes responsibility as the DERA and relieves the Fire District from such responsibility; and

WHEREAS, the Board of Directors of the South Adams County Fire Protection District has endorsed Commerce City taking upon itself the statutory responsibilities of the DERA; and

WHEREAS, Commerce City has the existing staff to handle the responsibilities of DERA without affecting daily operations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF COMMERCE CITY AS FOLLOWS:

1. That pursuant to Colorado Revised Statute 29-22-102(3)(a), Commerce City hereby designates Commerce City as the Designated Emergency Response Authority for hazardous substance incidents occurring within the corporate limits of Commerce City.

2. This resolution shall take effect the ____ day of _____, 2011.

RESOLVED AND PASSED THIS ____ DAY OF _____, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

**RESOLUTION OF THE
BOARD OF DIRECTORS OF THE SOUTH ADAMS
COUNTY FIRE PROTECTION DISTRICT NO. 4
IN SUPPORT OF THE CITY COUNCIL OF THE CITY OF COMMERCE CITY
ASSUMING THE DUTIES AND RESPONSIBILITIES OF THE DESIGNATED
EMERGENCY RESPONSE AUTHORITY (“DERA”) FOR COMMERCE CITY**

Resolution No. 2011- 01

WHEREAS, Colorado Revised Statutes, § 29-22-102(3)(a) provides as follows:

“The governing body of every town, city, and city and county shall designate by ordinance or resolution an emergency response authority or authorities for hazardous substance incidents occurring within the corporate limits of such town, city, and city and county. Unless otherwise designated by ordinance or resolution, the fire authority having responsibility for the corporate limits of such town, city, or city and county shall be the designated emergency response authority;” and

WHEREAS, pursuant to said section, the South Adams County Fire Protection District has served as the DERA for the City of Commerce City; and

WHEREAS, as the DERA, the South Adams County Fire Protection District has been responsible for providing and maintaining the capability for emergency response to hazardous substance incidents occurring within its jurisdiction, and for providing substantial administrative and financial resources in connection with the fulfillment of that responsibility; and

WHEREAS, the City of Commerce City has determined that it is prepared to assume all of the responsibilities inherent in serving as the DERA for the City of Commerce City; and

WHEREAS, the Board of Directors of the South Adams County Fire Protection District hereby finds that the City of Commerce City is willing and able to assume and fulfill all of the responsibilities inherent in becoming the DERA.

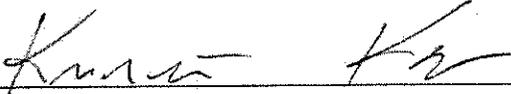
IT IS HEREBY RESOLVED AS FOLLOWS:

1. That the Board of Directors of the South Adams County Fire Protection District supports and encourages the passage of an appropriate Resolution by the City Council of the City of Commerce City, designating the City of Commerce City as the DERA throughout the municipal boundaries of the Commerce City, and

2. That the South Adams County Fire Protection District will continue to assist and cooperate with the City of Commerce City to support the City’s fulfillment of its responsibilities as the DERA.

RESOLVED AND APPROVED BY MOTION this 15th day of February, 2011.

BY THE BOARD OF DIRECTORS OF THE SOUTH
ADAMS COUNTY FIRE PROTECTION DISTRICT



Kenneth Koger,
Board President

ATTEST:



Randy Buckalew, Secretary



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 24 Feb 2011

Number of Attachments: 1

Subject: Ordinance Amending the City Emergency Operations Plan, reflecting the City's assumption of the responsibilities of the Designated Emergency Response Authority

Presenter: Alan Colon

Recommended City Council Action:

Approval of Ordinance at First Reading

Summary Statement:

- An Ordinance amending Sections 23-4 and 23-5 of Chapter 23 of the Revised Municipal Code of the City of Commerce City, Colorado relative to general agency assignments and specific hazard assignments set forth in the Emergency Operations Plan for the City of Commerce City, Colorado.
- The proposed ordinance would modify the current agency and department assignments of responsibility, moving the responsibility for hazardous materials from the Fire Department to the City of Commerce City.

Next Steps: Second reading and final passage.

Expenditure Required: No direct costs.

Source of Funds: Current budgets.

Policy Issue: The current ordinance conflicts with the proposed Resolution 2011-10, which would make the City the Designated Emergency Response Authority

(DERA) for hazardous materials incidents. Without the ordinance amendment, there would be a conflict between our statutory responsibilities as the DERA as assumed by Resolution 2011-10, and the task assignments specified in ordinance.

Alternative: Decline to adopt Resolution 2011-10 and this proposed ordinance amendment.

Background Information:

The Board of Directors for the South Adams County Fire Protection District has passed a resolution supporting the City becoming the Designated Emergency Response Authority. A copy of the signed Fire Board resolution is attached to the Council Communications for this ordinance, and to the Council Communications for Resolution 2011-10.

ORDINANCE NO. 1855

INTRODUCED BY:

AN ORDINANCE AMENDING SECTIONS 23-4 AND 23-5 OF CHAPTER 23 OF THE REVISED MUNICIPAL CODE OF THE CITY OF COMMERCE CITY, COLORADO RELATIVE TO GENERAL AGENCY ASSIGNMENTS AND SPECIFIC HAZARD ASSIGNMENTS SET FORTH IN THE EMERGENCY OPERATIONS PLAN FOR THE CITY OF COMMERCE CITY, COLORADO.

WHEREAS, Colorado Revised Statute 29-22-102(3)(a) provides that the fire district having jurisdiction within the city limits of a municipality shall be the Designated Emergency Response Authority (“DERA”) unless such municipality passes an ordinance or resolution designating itself as the DERA; and

WHEREAS, it is most expedient if Commerce City takes responsibility as the DERA and relieves the fire district from such responsibility; and

WHEREAS, the Board of Directors of the South Adams County Fire Protection District has endorsed Commerce City taking upon itself the statutory responsibilities of the DERA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Section 23-4 of Chapter 23 of the Revised Municipal Code of the City of Commerce City entitled “Task assignments” under the Emergency Operations Plan of the City of Commerce City is amended as follows:

Sec. 23-4. Task assignments.

(a) *General agency assignments (see also emergency support function matrix, Table A)*

...

| | |
|-----------------------------|------------------------------------|
| Decontamination | Commerce City Emergency Management |
| Concurrent Responsibilities | South Adams County Fire |
| | Tri-County Health |
| | Public Works |

...

(b) *Specific hazard assignments (see also specific hazard emergency support matrix, Table B)*

...

| | |
|-----------------------------|------------------------------------|
| Hazardous Materials | |
| Lead Agency | Commerce City Emergency Management |
| Concurrent Responsibilities | South Adams County Fire |
| | Commerce City Police |
| | Public Works |
| | Tri-County Health |

SECTION 2. Subsection (b)(13) of Section 23-5 of Chapter 23 of the Revised Municipal Code of the City of Commerce City relative to the responsibilities of the Fire Department under the Emergency Operations Plan of the City of Commerce City is amended to delete subsections f. and g. of said subsection (b)(13) and renumbering the subsections thereafter to read as follows:

Sec. 23-5. Organization and responsibilities.

...

(b) Responsibilities.

(13) The Fire Department is responsible for:

- a. Directing and conducting all types of fire-related and emergency medical events, unless the nature of the emergency requires the Police Department to take lead agency status;
- b. Providing all regularly assigned functions relating to fire prevention and control to minimize loss of life and property due to fire;
- c. Establishing a field command post or supplying personnel to an already established command post in an emergency or disaster situation;
- d. Providing a representative to the City emergency operations center;
- e. Providing initial communications between the emergency operations center and the affected area when needed, and providing the initial damage report to the emergency operations center;
- f. Providing emergency medical transportation to a hospital or other designated emergency medical treatment facility;
- g. Providing emergency medical assistance to all shelters in operation in order of most emergent situation;
- h. Providing emergency medical care triage sites;
- i. Concurrent search and rescue operations with Adams County sheriff's office;
- j. Urban search and rescue, and technical rescue are the responsibility of the South Adams County Fire Department.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS
7th DAY OF MARCH, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS
4th DAY OF APRIL, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

**RESOLUTION OF THE
BOARD OF DIRECTORS OF THE SOUTH ADAMS
COUNTY FIRE PROTECTION DISTRICT NO. 4
IN SUPPORT OF THE CITY COUNCIL OF THE CITY OF COMMERCE CITY
ASSUMING THE DUTIES AND RESPONSIBILITIES OF THE DESIGNATED
EMERGENCY RESPONSE AUTHORITY (“DERA”) FOR COMMERCE CITY**

Resolution No. 2011- 01

WHEREAS, Colorado Revised Statutes, § 29-22-102(3)(a) provides as follows:

“The governing body of every town, city, and city and county shall designate by ordinance or resolution an emergency response authority or authorities for hazardous substance incidents occurring within the corporate limits of such town, city, and city and county. Unless otherwise designated by ordinance or resolution, the fire authority having responsibility for the corporate limits of such town, city, or city and county shall be the designated emergency response authority;” and

WHEREAS, pursuant to said section, the South Adams County Fire Protection District has served as the DERA for the City of Commerce City; and

WHEREAS, as the DERA, the South Adams County Fire Protection District has been responsible for providing and maintaining the capability for emergency response to hazardous substance incidents occurring within its jurisdiction, and for providing substantial administrative and financial resources in connection with the fulfillment of that responsibility; and

WHEREAS, the City of Commerce City has determined that it is prepared to assume all of the responsibilities inherent in serving as the DERA for the City of Commerce City; and

WHEREAS, the Board of Directors of the South Adams County Fire Protection District hereby finds that the City of Commerce City is willing and able to assume and fulfill all of the responsibilities inherent in becoming the DERA.

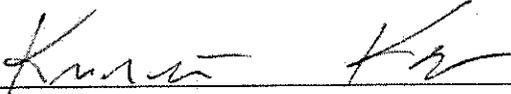
IT IS HEREBY RESOLVED AS FOLLOWS:

1. That the Board of Directors of the South Adams County Fire Protection District supports and encourages the passage of an appropriate Resolution by the City Council of the City of Commerce City, designating the City of Commerce City as the DERA throughout the municipal boundaries of the Commerce City, and

2. That the South Adams County Fire Protection District will continue to assist and cooperate with the City of Commerce City to support the City’s fulfillment of its responsibilities as the DERA.

RESOLVED AND APPROVED BY MOTION this 15th day of February, 2011.

BY THE BOARD OF DIRECTORS OF THE SOUTH
ADAMS COUNTY FIRE PROTECTION DISTRICT



Kenneth Koger,
Board President

ATTEST:



Randy Buckalew, Secretary



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 01 Mar 2011

Number of Attachments: one

Subject: Municipal Code Amendment: "Fraud by Check"

Presenter: Roger Tinklenberg

Recommended City Council Action:

Approve the ordinance on its first reading.

Summary Statement:

The City has been experiencing difficulty with regard to receipt of bad checks for payment of sales and use taxes owed to the City. The process has been for Finance to first notify the taxpayer of the bad check. If a satisfactory response is not received, then the case is referred to the City Attorney's Office in order for that office to contact the taxpayer and advise of the need to satisfy the tax obligation.

If the City Attorney's Office fails to receive cooperation with regard to payment of the bad check, there is no choice to the City but to either write off the claim or to proceed with legal action. The recommended approach is to proceed in the Municipal Court rather than the Adams County Court in Brighton for checks written for less than \$1,000.00. If the check is written for \$1,000.00 or more, it is a felony and the case must be filed in the District Court of Adams County.

In order to proceed in the Municipal Court, an ordinance is necessary to amend the Revised Municipal Code.

Next Steps: Approve the ordinance on second reading.

Expenditure Required: None

Source of Funds: N.A.

Policy Issue: It is desirable to handle cases involving less than \$1,000.00 locally in the Municipal Court.

Alternative: Take no action.

Background Information:

Certain businesses have become chronic issuers of bad checks and it is necessary to have another enforcement tool available.

ORDINANCE NO. 1850

INTRODUCED BY:

AN ORDINANCE AMENDING SECTION 12-8001 ENTITLED "FRAUD BY CHECK" OF THE REVISED MUNICIPAL CODE OF THE CITY OF COMMERCE CITY.

WHEREAS, an amendment to Section 12-8001 entitled "Fraud by check" of the Revised Municipal Code of the City of Commerce City is required in order to prosecute the writer of a check for issuance of a check when the writer has no account with the bank upon which the check is drawn at the time he issues the check or has insufficient funds upon deposit with the bank on which the check is drawn with which to pay the check.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Section 12-8001 entitled "Fraud by check" of the Commerce City Revised Municipal Code is amended to read as follows:

Sec. 12-8001. Fraud by check.

- (1) It shall be unlawful for any person knowing he/she has insufficient funds with the drawee to issue a check in an amount less than one thousand dollars (\$1,000.00) for the payment of services, wages, salary, commissions, labor, rent, money, property, taxes, debt or other thing of value.
- (2) For purposes of this section, the issuer's knowledge of insufficient funds is presumed except in the case of a post-dated check or order, if:
 - (a) He has no account upon which the check or order is drawn with the bank or other drawee at the time he issues the check or order; or
 - (b) He has insufficient funds upon deposit with the bank or other drawee to pay the check or order on presentation within thirty (30) days after issue.
- (3) If a deferred prosecution, deferred sentence or suspended sentence is ordered, the court as a condition of supervision or suspended sentence shall require the defendant to make restitution on all checks issued by the defendant which are the subject of charges in the case and are unpaid as of the date of commencement of the order for deferred prosecution or deferred sentence in addition to other terms and conditions as determined by the court to be appropriate for the treatment or rehabilitation of the defendant.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF MARCH, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 4th DAY OF APRIL, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 20 Jan 2011

Number of Attachments: 1

Subject: ORDINANCE NO. 1851 Smoking Prohibition in or on Park Property

Presenter: Mizraim Cordero and Karen Stevens

Recommended City Council Action:

Staff recommends City Council Approve Ordinance No. 1851 on first reading.

Summary Statement:

There is significant data available to the public which suggests there are significant health risks related to second hand smoking as well as environmental risks posed by improperly discarded cigarette butts in public places. At the direction of City Council, staff has prepared Ordinance No. 1851 for City Council's consideration to work toward addressing the issue of smoking in parks.

Next Steps: Once approved Parks and Recreations Department will prepare signs to inform the public of the new ordinance.

Expenditure Required: The bulk of the expense would be in developing signs to inform the public of this new ordinance. However, there will be no significant new expense generated by this ordinance. New signage informing members of the public will be part of already pre-budgeted signage project by the Parks and Recreation Department.

Source of Funds: To be determined.

Policy Issue: The protection of public health, safety and welfare by discouraging the inherently dangerous behavior in circumstances where other persons will be exposed to secondhand smoke.

Alternative: Not to approve, redirect staff to study the issue further from a different angle.

Background Information:

Get Real Colorado in collaboration with children from the Adams County School District 14 and Boys and Girls Clubs have been working to raise awareness of the effects of smoking and second hand smoking. As a result of this work, children from the School District 14 presented to City Council and requested that City Council consider some type of action to discourage smoking in our local parks and trails. Following a presentation on December 13th City council deliberated and directed staff to draft an ordinance banning smoking in city parks.

ORDINANCE NO. 1851

INTRODUCED BY: _____

AN ORDINANCE AMENDING CHAPTER 7 OF THE COMMERCE CITY REVISED MUNICIPAL CODE BY THE ADDITION OF SECTION 7-1014 PROHIBITING SMOKING IN CITY PARKS, TRAILS, OPEN SPACES AND RECREATION FACILITIES, WITH CERTAIN EXCEPTIONS.

WHEREAS, scientific studies have concluded that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys;¹ and

WHEREAS, the use of cigars is known to cause lung, larynx, esophageal, and oral cancer;² and

WHEREAS, more than 440,000 people die in the United States from tobacco related diseases every year, making it the nation's leading cause of preventable illness;³ and

WHEREAS, the World Health Organization (WHO) estimates that tobacco will account for 10 million deaths per year by 2030, making it the greatest cause of death worldwide;⁴ and

WHEREAS, deaths from smoking around the world will soon outnumber those from AIDS, tuberculosis, traffic accidents, murder, and suicide combined;⁵ and

WHEREAS, the United States Environmental Protection Agency (EPA) has found secondhand smoke to be a risk to public health, and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen;⁶ and

WHEREAS, exposure to secondhand smoke is the third leading cause of preventable death in this country, killing over 52,000 non-smokers each year,⁷ including 3,000 deaths from lung cancer;⁸ and

¹ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002*.

² U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Annual Smoking – Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999* (2002)

³ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Highlights Annual Smoking – Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999* (2002)

⁴ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Reducing Tobacco Use: A Report of the Surgeon General*, 437 (2001).

⁵ Macksood Aftab, et. al., *International Cigarette Labeling Practices*, 8:4 TOBACCO CONTROL 368 (1999).

⁶ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Clean Indoor Air Regulations Fact Sheet* (2001).

⁷ S.A. Glantz & W. Parmley, *Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry*, 83(1) Circulation 1 (1991) and California Environmental Protection Agency, Office of Env'tl. Health Hazard Management, *Health Effects of Exposure to Environmental Tobacco Smoke: Final Report* (1997).

⁸ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Targeting Tobacco Use:*

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure;⁹ and

WHEREAS, secondhand smoke exposure adversely affects fetal growth, with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome (SIDS) in infants of mothers who smoke;¹⁰ and

WHEREAS, secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis,¹¹ exacerbates childhood asthma, and increases the risk of acute, chronic, middle ear infection in children;¹² and

WHEREAS, almost 90% of adult smokers started smoking at or before age 18;¹³ and

WHEREAS, smoking in front of children is likely to increase the likelihood that they will smoke; and

WHEREAS, it is the intent of the City Council in enacting this ordinance to provide for the public health, safety, and welfare by striking a reasonable balance between the needs of persons who smoke and the needs of non-smokers, including children, to breath smoke-free air, given the hazards associated with secondhand smoke; and

WHEREAS, it is the purpose of this ordinance to protect the public health, safety and welfare by discouraging the inherently dangerous behavior in circumstances where other persons will be exposed to secondhand smoke; by protecting children from exposure to smoking and reducing the potential that they associate such activity with a healthy lifestyle; by protecting the public from litter and pollution related to smoking; and by affirming and promoting the family-friendly atmosphere of the City's parks, trails and open spaces.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

SECTION 1. Chapter 7 of the Commerce City Revised Municipal Code is hereby amended by the addition of Section 7-1014 which shall read as follows:

The Nation's Leading Cause of Death 2002, 2 (2002).

⁹ Pirkle, et al., JOURNAL OF AMERICAN MEDICINE, 275: 1233-40 (1996).

¹⁰ 11 Cal. Env'tl. Prot. Agency, Office of Env'tl Health Hazard Assessment, *Health Effects of Exposure to Environmental Tobacco Smoke, Final Report ES-5* (1997).

¹¹ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002*, 2 (2002).

¹² U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Clean Indoor Air Regulations Fact Sheet* (2001),

¹³ National Household Surveys on Drug Abuse, unpublished data, 1998. *See also*, U.S. Dep't of Health & Human Servs. et al., *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*, 101 (1994).

Sec. 7-1014 Smoking Prohibited

- (1) General Prohibition. Except as provided in paragraph (2), it is unlawful for any person to smoke in or on park property.
- (2) Exempt Areas. The following areas shall be exempt from the prohibition contained in paragraph (1) of this section unless specifically posted otherwise at the site:
 - (a) The Buffalo Run Golf Course; and
 - (b) Any areas of park property that are designed and intended for the parking of automobiles.

SECTION 2. This Ordinance shall be effective on April 1, 2011.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7th DAY OF MARCH, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 4th DAY OF APRIL, 2011.

CITY OF COMMERCE CITY, COLORADO

Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 23 Feb 2011

Number of Attachments: 1

Subject: Residential Trash Storage Discussion

Presenter: Brian McBroom, David Lutter

Recommended City Council Action:

Provide direction to staff regarding residential trash storage regulations.

Summary Statement:

In August of 2010, the City Council adopted a new Municipal Code that included revised regulations pertaining to the storage of trash and trash containers in residential areas. Since these new regulations became effective, the City Council has received negative feedback about these regulations. City staff will review the current provisions, the former provisions, and what precipitated the changes. Staff will also summarize community feedback staff has received about the current and former regulations and will present alternatives for modifying the current regulations.

Next Steps: Should City Council direct staff to prepare amendments to the Municipal Code, staff will initiate that process and return with a code amendment at a later date.

Expenditure Required: N/A

Source of Funds: N/A

Policy Issue: Are the current regulations appropriate or are modifications needed to meet the City Council's intent?

Alternative: Alternative regulations are possible, including reverting to the previous regulations under the former Municipal Code

Background Information:

Please see the attached presentation with additional background information about this issue.

Trash Container Storage



MARCH 2011 PRESENTATION



Presentation Outline



- Overview of current enforcement process
- A review of current and past regulations
- Examples of current violations
- Alternatives
- Feedback and direction from the City Council

Current Enforcement Process



- Decriminalized Violations in 2010
- Municipal Civil Infractions
- Notice of Violation – Re-inspection – Closeout or Fine
- Old process utilized criminal charges through Municipal Court

Old Standard

Sec. 8-32 Location of containers



Containers for garbage, trash, rubbish or debris for outside residential pickup shall be placed on the premises within three (3) feet of the right-of-way in front of the front setback of the street to which the premises are addressed on the morning of or the evening before the day scheduled for collection; provided, however, that all containers must be removed from the front street right-of-way to **behind the front line of the principal building** as soon as possible after collection but in no event more than twenty-four (24) hours after collection.

New Code

Sec. 6-2003 Garbage and Trash



(1) **Removal.** The owner or occupant of any property located within the city shall provide for the removal of all trash, garbage or waste of any kind from the property at regular intervals. Such intervals shall be as often as necessary to prevent the creation of a public health nuisance, but in no event shall the interval between collections exceed thirty (30) days. ***Between collections, all trash, garbage and waste shall be securely stored in watertight, corrosive-resistant containers with tight-fitting lids.***

(2) **Trash container storage.** ***Except to facilitate collection, trash containers in residential districts shall be placed behind a privacy fence, in a garage or other completely enclosed building or otherwise fully screened from public view by landscaping or a dumpster enclosure.*** Trash containers/dumpsters in commercial districts shall be screened by a dumpster enclosure or as stipulated on a site plan. Containers in residential areas shall be placed at the curb in the morning of or evening before the scheduled collection and shall be removed from the curb and returned to an appropriate storage area not more than twenty-four (24) hours after collection.

Why Was the Code Changed?



- Community feedback
- Impact on neighborhood
- Vagueness of old language
- Sanitation concerns with bags/containers

Notice of Violation



CITY OF COMMERCE CITY NOTICE OF VIOLATION

Neighborhood Services Division
7887 East 60th Avenue
Commerce City, CO 80022
Phone (303) 227-8860, Fax (303) 227-8859
www.cjgov.com

| | | | | | | |
|---|------------------|---------------------|---|----------------------|--|--|
| Location/Address of Violation 13701 E 104TH Ave | | | | | Case Report Number 10-5931 | |
| Month 10 | Day 20 | Year 2010 | Time 3:01 | Photos Yes | Closed: 11-9-10 Fine | |
| Responsible Party Name (Individual or Business) | | | | | Protest Hearing: _____ | |
| Responsible Party Address (if different from Location/Address of Violation) | | | | | Resolved: _____ | |
| Manner & Date of Service | | | | | Property clean-up: _____ | |
| <input type="checkbox"/> Personal _____ <input checked="" type="checkbox"/> Mail 10/25/10 <input type="checkbox"/> Posting _____ | | | | | Summons number CM: _____ | |
| | | | | | Data entry: MW Date: 11-23 | |
| MUNICIPAL: Sec. 6-2003(1) <input checked="" type="checkbox"/> Garbage/Trash Removal Sec. 6-2003(2) <input checked="" type="checkbox"/> Trash Container Storage Sec. 6-2005 <input checked="" type="checkbox"/> Inoperable Vehicles/Tractors Sec. 6-2007 <input checked="" type="checkbox"/> Outdoor Laundry Sec. 6-2008 <input checked="" type="checkbox"/> Outdoor Storage of Materials Sec. 6-2010 <input checked="" type="checkbox"/> Public Health Nuisance Sec. 6-2012(2)(a) <input checked="" type="checkbox"/> Weeds/Grass Sec. 6-2012(2)(b) _____ Diseased/Dead Woody Vegetation Sec. 6-2012(2)(e) _____ Encroachment of Vegetation Sec. 6-2013(a) _____ Hazards/Obstructions on Sidewalk Sec. 6-2013(b) _____ Accumulation/Deposition of Snow/Ice Sec. 11-23(513)(1) _____ Oversize Vehicles Sec. 11-23(513)(8)(a) _____ Parking on Lawn | | | ZONING/LAND USE: Sec. 21-3210(2) _____ Building Permit Required Sec. 21-5200 _____ Land Use Table Sec. 21-5254 _____ Outdoor Storage Sec. 21-8120(1) _____ Sign Permit Required Sec. 21-8150() _____ Signs - General Standards Sec. 21-8600() _____ Prohibited Signs | | | |
| OTHER: Note: Trash containers must be stored in a fully enclosed area or structure, not seen from public view. All vehicles must be currently licensed and operable. Vehicle is a black dodge pickup, plate # 8456F | | | | | | |



Location of trash containers



Location of trash containers



Blocking the sidewalk



Alternatives



- Continue with current regulations
- Revert to former regulations
- Hybrid options:
 - Allow containers with lids only in front yard
 - Require setback for trash containers
 - Provide for modifications based upon unique situations

Thank you!



QUESTIONS, COMMENTS, FEEDBACK

Additional Information



Example AskC3 Service Requests



- trash cans out so they can be seen
- trash cans out front so you can see them
- Trash cans left out so you can see them
- i was told about my trash cans and the person was nice i was given 14 days to move my cans so the other people on the block should do the same they dont care these people must be renters because they dont care they dont clean the walks either
- people keeping trash cans out. can you ask them to put out of sight. it make s the neighborhoods look better
- the house next door has their trash cans out front of the house all week long. This looks bad. they are the first house north of mitchell campers on the west side.
Thanks
- Last week several neighbors received a notice to move their trash cans. Good job, this makes our city looks cleaner. I know a neighbor up the street was complaining but please dont' listento her. She always complains about people that arn't white. she always complains about the store on the corner for no reason.

AskC3 Service Requests (Continued)



- why is we up north keep our trash cans out of sight but the inter city they dont have to. I know I live in a good neighborhood but i visisted some friends and there are many houses with the cans visable. Doesn't city council relize this looks bad. I dont see this in other cities
- I have received the e-mail from the city website on trash containers and read it in the newsletter the city sends to residents. I have no problem in keeping my trash containers in the proper location ,which the city has suggested. My problem is that there should also be included is for the trash containers not to be placed next to the neighbors boundary line, but some footage between residents. I have had a lot of different residents living next to me and they have placed their trash next to my fence. I have smelled odors from dog feces to rooten garbage and even diapers that they missed when trying to throw it in the container from their back door and after my dog got done with it , it was all over the yard. We also have a rule where trash containers are to be covered, why was that not mentioned. I know it is a difficult job to please everyone but if this is a subject the needs to be addressed then address other problems that neighbors my have with trash location on the property. I know that leaving containers covered on trash pick-up day my not be necessary because the lids are the first thing that the goes missing. I felt that I had to comment on the trash issue, because there is a problem with containers from neighbors to neighbors . Thank- you for your time in reading this problem. Resident for over 55 years.



Council Communication

City Council Meeting: 07 Mar 2011

Prepared: 02 Mar 2011

Number of Attachments:

Subject: Discussion Item - Update Presentation to City Council on the I-70 EIS PACT

Presenter: Tom acre

Recommended City Council Action:

This is an update presentation by staff to City Council; no formal action is requested or required at this time. General direction regarding the alignment may be appropriate after the presentation.

Summary Statement:

This is an update presentation by staff regarding the I-70 EIS PACT. Staff last presented an update to City Council at the November 8, 2010 Council meeting.

Staff will present a summary of the last several meetings and outcomes to City Council.

Since the last staff update, the PACT received presentations over the course of several meetings from CDOT, their consultants, and stakeholders regarding the alignment alternatives and various factors such as: access and mobility, connectivity, transit facilities, trucking movement, safe travel, environmental (air quality, noise, natural resources, historic places, environmental justice) traffic, schools, economic development, construction, and cost of the alignments.

Each of the factors were evaluated by the PACT in relation to the alternatives and if they are positive, neutral or negative impacts to the alternatives.

At the future meetings the PACT will likely be asked to give an indication of a which alternative should be looked at it in more detail. CDOT and their consultants will then do additional analysis on that alternative and come back to a future PACT meeting

and present the information. The PACT will then be asked to evaluate the alternative with the new information to see if there is support for the alternative, or should additional analysis be done on the other alternative.

Information we have been provided in the PACT indicates this process will take several months and it will likely be mid-year at the earliest before a preferred alignment may be recommended by PACT.

Next Steps: Staff will continue to participate in the I-70 EIS Pact process and will periodically provide updates to City Council.

Expenditure Required: No Expenditure is required.

Source of Funds: Not Applicable.

Policy Issue: Does City Council have a preference regarding alignment alternatives for I-70?

Alternative: City Council could take a neutral position regarding alignment alternatives.

Background Information:

Attached to this Council Communication are the following items as background information:

- Alternative Maps as presented in the DEIS and potential improvements suggested for the re-alignment alternative
- November 8, 2010 Council Communication



I-70 EIS PACT UPDATE

Alternative Maps

City Council Meeting
March 7, 2011

1 EXISTING

Alternative 1 (Map 1)



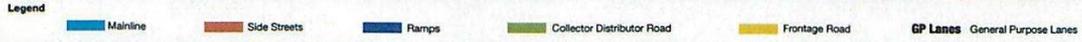
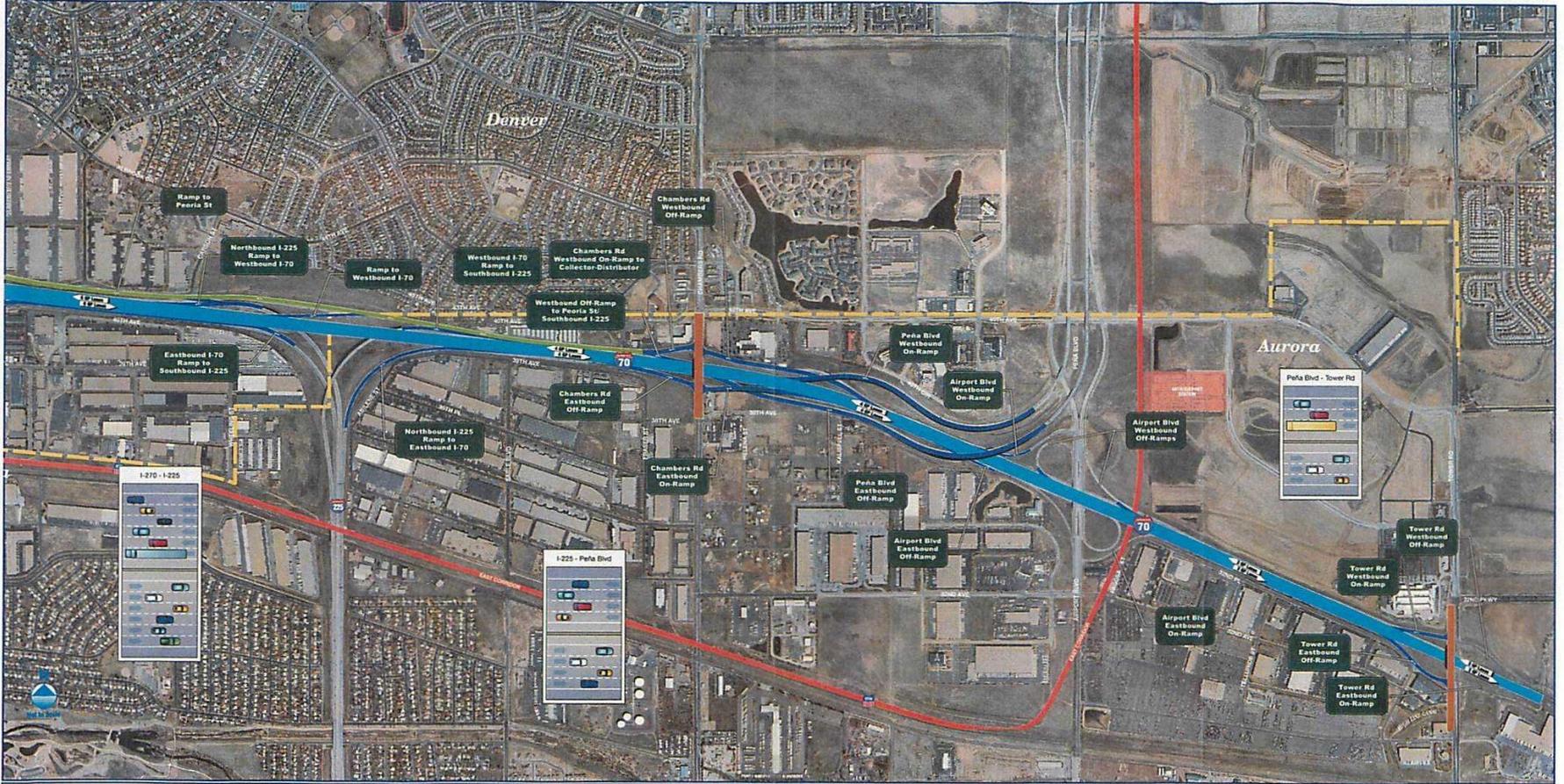
1 EXISTING

Alternative 1 (Map 2)



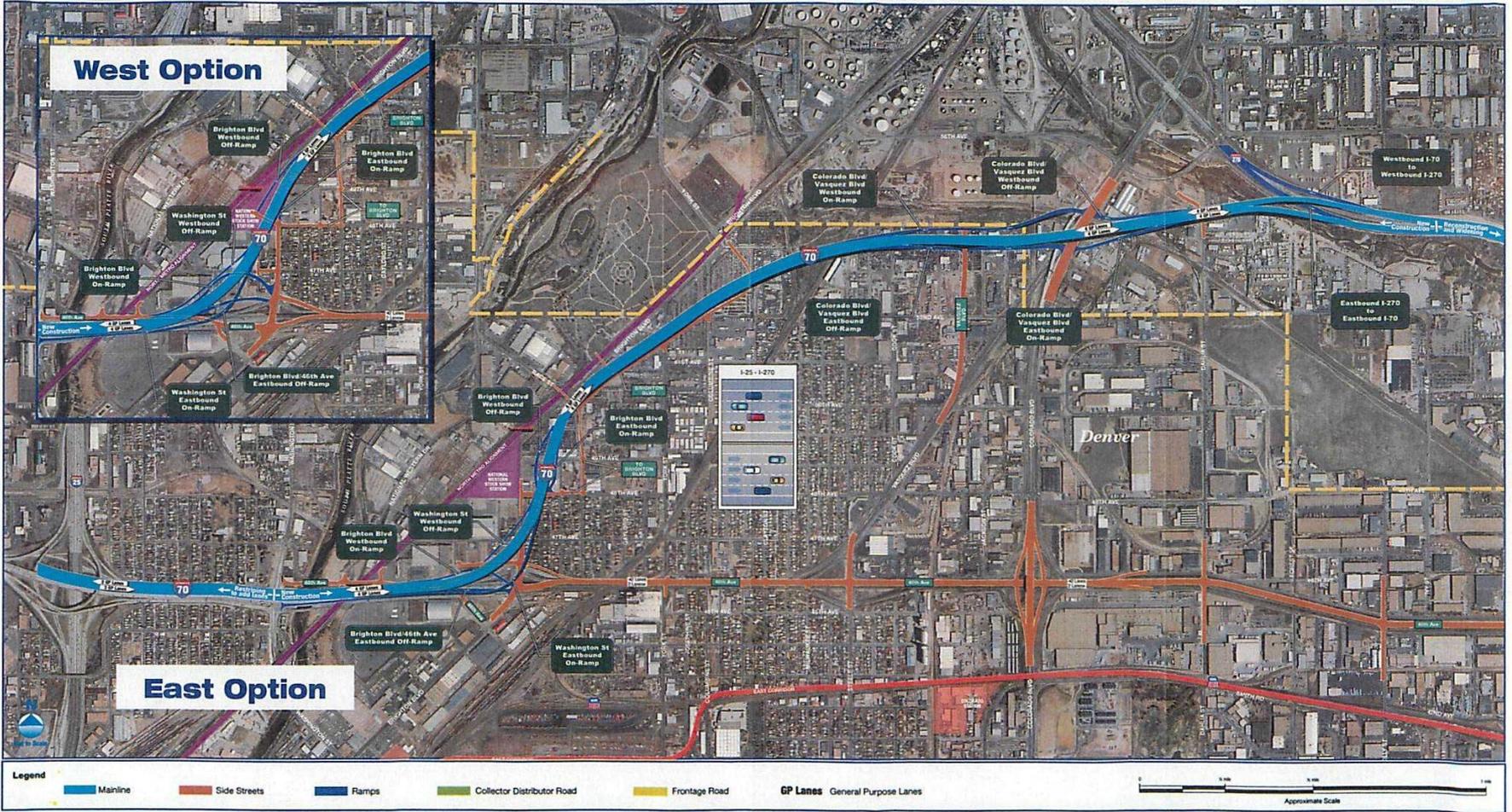
1 EXISTING

Alternative 1 (Map 3)



4
 REALIGNED

Alternative 4 (Map 1)



4
 REALIGNED

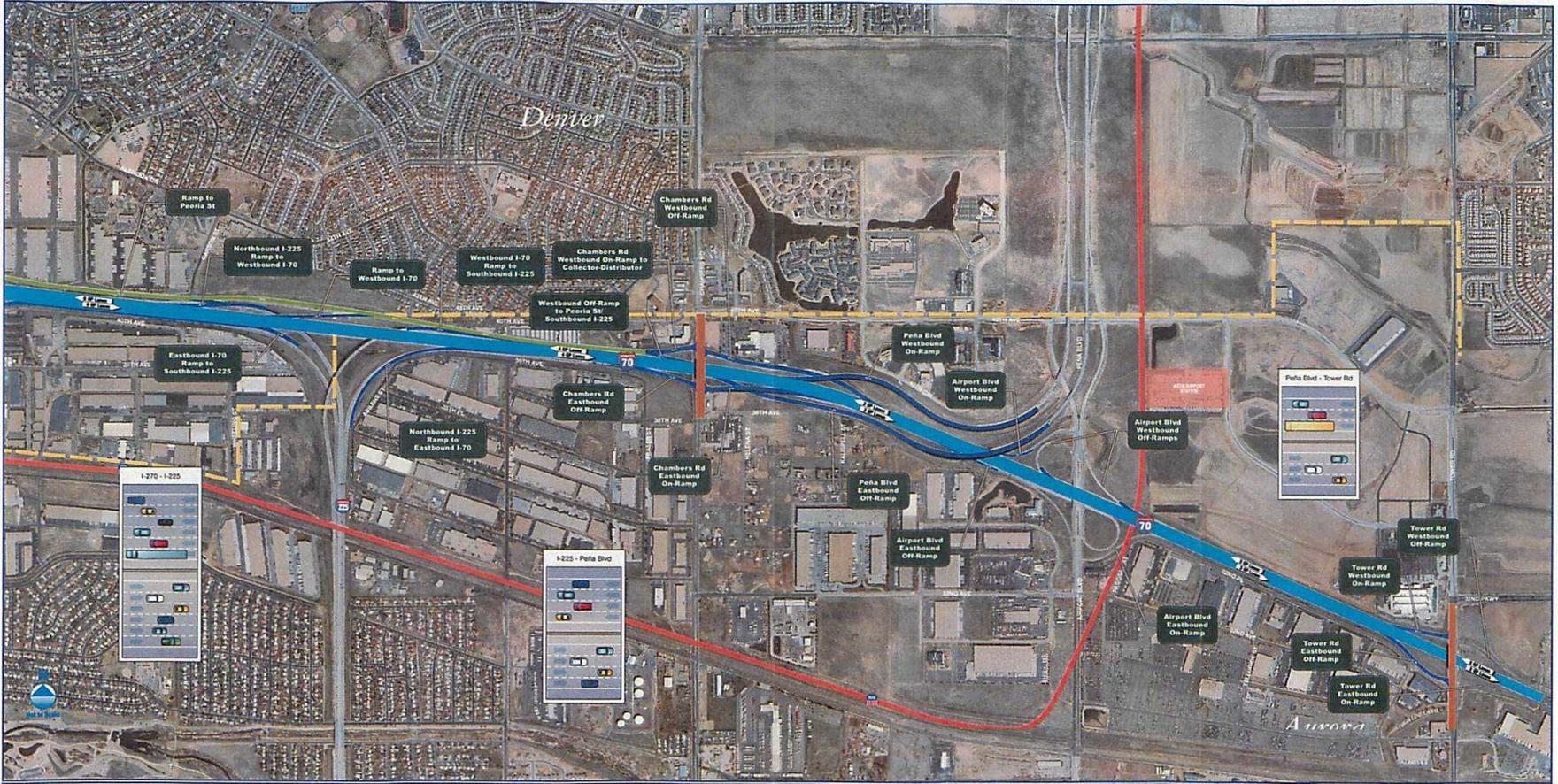
Alternative 4 (Map 2)



www.i-70east.com ■ 303.294.9300

4
 REALIGNED

Alternative 4 (Map 3)



Legend

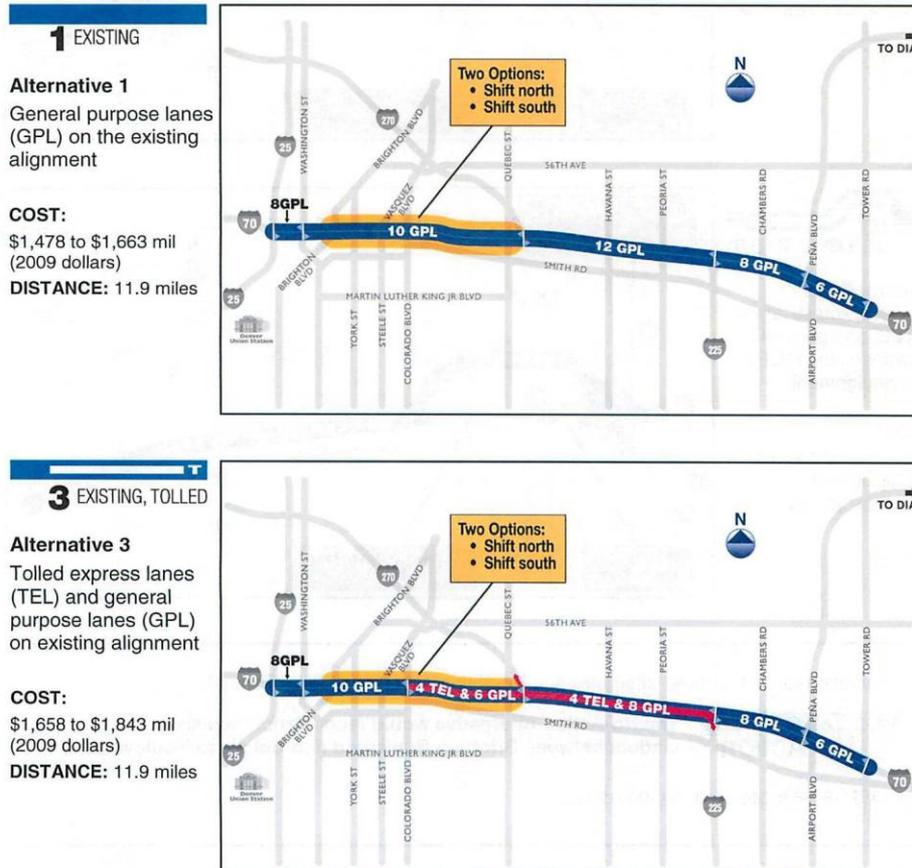
- Mainline
- Side Streets
- Ramps
- Collector Distributor Road
- Frontage Road
- GP Lanes
- General Purpose Lanes

Approximate Scale

Alternatives Evaluated in the DEIS

The Colorado Department of Transportation (CDOT) and Federal Highway Administration (FHWA) are conducting the I-70 East Environmental Impact Statement (EIS) to identify highway improvements along I-70 between I-25 and Tower Road that would improve safety, access, and mobility and address congestion.

Four build alternatives, shown schematically on the following figures, are evaluated in the DEIS.



4
REALIGNED

Alternative 4

General purpose lanes (GPL) on realignment

COST:

\$1,794 to \$1,989 mil
(2009 dollars)

DISTANCE: 12.8 miles



6
REALIGNED, TOLLED

Alternative 6

Tolled express lanes (TEL) and general purpose lanes (GPL) on realignment

COST:

\$2,099 to \$2,291 mil
(2009 dollars)

DISTANCE: 12.8 miles

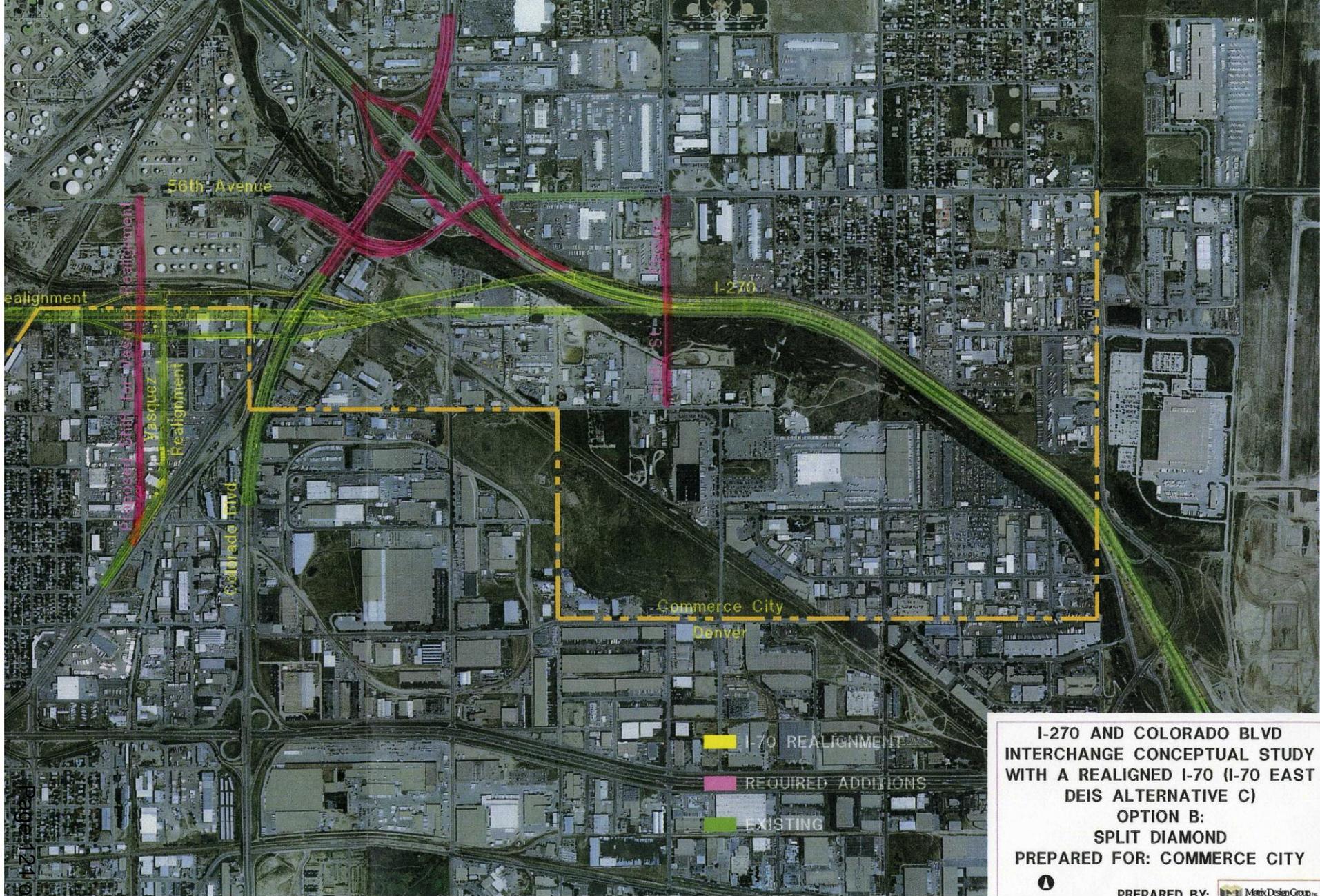


In addition to the four build alternatives, a No-Action Alternative is also evaluated.

No-Action

The No-Action Alternative would reconstruct the existing I-70 viaduct between Brighton Boulevard and Colorado Boulevard.

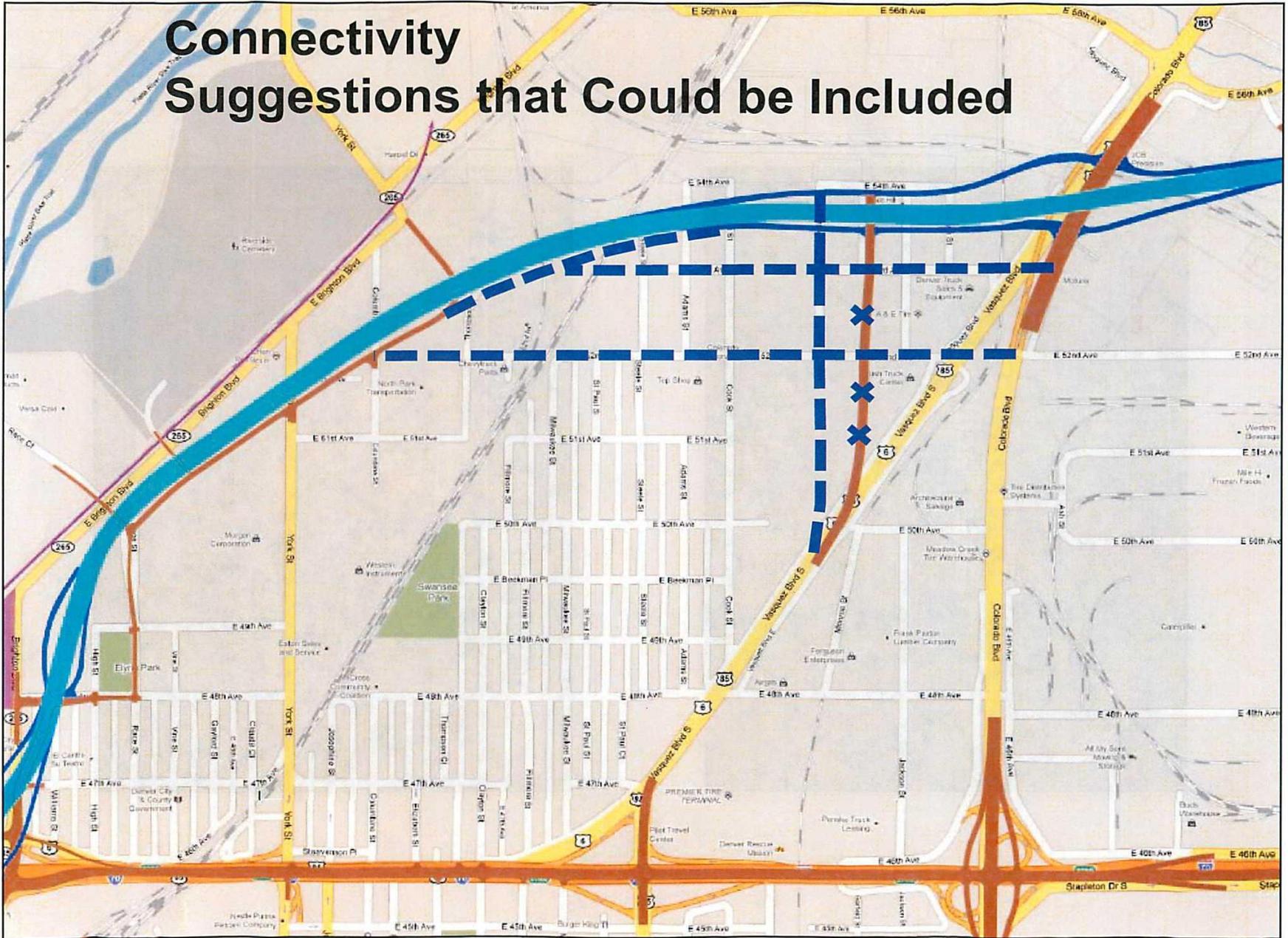
COST: \$486 to \$697 million (2009 dollars)



**I-270 AND COLORADO BLVD
 INTERCHANGE CONCEPTUAL STUDY
 WITH A REALIGNED I-70 (I-70 EAST
 DEIS ALTERNATIVE C)
 OPTION B:
 SPLIT DIAMOND
 PREPARED FOR: COMMERCE CITY**

PREPARED BY:  Matrix Design Group

Connectivity Suggestions that Could be Included





Council Communication

City Council Meeting: 08 Nov 2010

Prepared: 01 Nov 2010

Number of Attachments: none

Subject: Discussion Item -Update to City Council on the I-70 EIS PACT Process.

Presenter: Tom Acre

Recommended City Council Action:

This is an update presentation by staff to City Council, no action is requested or required at this time.

Summary Statement:

This is a follow up informational presentation by staff to the August 23, 2010 update and a follow up to Council Member Benson's September 20, 2010 inquiry regarding hot lanes on I-270.

The Draft EIS contained four alternatives; existing alignment without tolling, existing alignment with tolling, re-alignment without tolling and re-alignment with tolling. Currently the PACT is working with the existing alignment and the re-alignment options without tolling. Tolling will be considered in the future. The discussion on hot lanes option with tolling will likely be discussed at that time.

The PACT has been reviewing information from the DEIS and having discussion regarding the impacts and potential ways to make each alignment better and more acceptable to the stakeholders.

Commerce City is represented on the PACT by Tom Acre and Nanette Neelan - Staff members; Scott Jaquith and Guillermo Serna - Community Members; and Jimmy Burds as the Business Member.

Two PACT meetings have been held since staff's last update to City Council. Meetings were held on September 9, 2010 and October 14, 2010.

At the September 9, 2010 meeting, the PACT brainstormed how the alignment alternatives could be improved. This included breaking into two multi-jurisdictional groups to brainstorm suggestions/concerns related to infrastructure/physical characteristics of the the alignments, ideas for mitigating concerns, and what might others do to address a concern. The outcome of the brainstorm sessions was a list of suggestions/concerns along with the CDOT/consultants initial responses and recommended actions regarding the suggestions/concerns. Additional work with this information was planned for the October 14, 2010 meeting following a bus tour.

On October 14, 2010, the PACT members took a bus tour of the alignments with stops at certain locations to discussion concerns, issues or opportunities related to the specific area and the alternative proposed. Some discussion to clarify some of the information gathered from the September 9, 2010 meeting was held, with the outcome indicating that CDOT/consultants should meet with the various staff members of the jurisdictions to refine the September 9, 2010 list.

CDOT/consultants will meet with Commerce City Staff prior to the November 11, 2010 PACT. Additionally Commerce City technical staff and the CDOT/consultant team will meet to follow up on the traffic analysis work which has been done.

Next Steps: Staff will continue to participate in I-70 PACT and will periodically provide updates to City Council. Staff meets with the Commerce City and County PACT members prior to each PACT meeting for information exchange regarding the PACT.

Expenditure Required: No expenditure is required.

Source of Funds: Not Applicable

Policy Issue: This is an informational briefing to City Council.

Alternative: This item is information to update City Council.

Background Information:

PACT meetings were held on July 29, 2010 and August 12, 2010 at the Swansea Recreation Center. The focus of these two meetings was to provide information to the PACT regarding the EIS process, alternatives being considered, and the PACT process.

PACT members were given the opportunity to provide input regarding what additional data they felt was needed for the PACT. The majority of the data requested is present in the DEIS and was pulled from the DEIS and provided in

summary form and discussed at the August 12, 2010 meeting.

PACT members were provided zoning and land use maps from each community along the alignment corridors which was used in for the September meeting, during which PACT members started the discussion on what could improve each of the alignment alternatives.

As a result of the comments provided by Commerce City during the comment period for the DEIS process for the I-70 Corridor, updates by Colorado Department of Transportation and their coordination meeting with City Council and other impacted jurisdictions; City staff has been working directly with Colorado Department of Transportation and their consultants to address our concerns.

Over the past 6 months, CDOT/consultants and Commerce City staff have collaboratively reviewed the technical tools to address specifically the technical concerns raised by Commerce City during the DEIS process. As a result the data used has been refined, especially in the area north of 56th Avenue. The refinement included updating the land use information and the roadway configuration amongst other modeling factors - all of which impact the modeling outcomes - predicted traffic volumes. These modeling outputs will be used to further refine the analysis such as air, noise etc and explore further refinements to the proposed options.

Modeling analysis is on-going and will provide information needed to assist in making recommendations and decisions as the EIS process moves forward. CDOT has made the commitment to do additional traffic analysis to determine impacts on Commerce City roadways of concern and to determine appropriate mitigation measures as necessary.

The cooperation has been outstanding between Commerce City staff and CDOT/consultants and serves as a new starting point for Commerce City discussions in the collaborative process.

Parallel to these technical efforts, CDOT and their independent facilitators for the collaborative process, the Keystone Center, are initiating the collaborative process called the I-70 East Preferred Alternative Collaborative Team (PACT). The Keystone Center has been the facilitator to identify stakeholders and the process for citizen, business, and staff involvement as the collaborative process moves forward. The Keystone Center developed operating protocols and a process guide for the PACT. A copy of the draft operating protocols and process guide for the PACT and a sample agenda for an upcoming meeting are attached. The draft protocols will be ratified and approved by the PACT at their first meeting.

Prior to the first PACT meeting the community and business stakeholders will attend workshops regarding the I-70 EIS and the PACT process at which they will self select who will participate in the PACT. The Business Workshop was held on July 14, 2010 and the Community Workshop was held on July 16, 2010.

In an effort to communicate information to City Council and the community stakeholders regarding the I-70 EIS, recent efforts of staff working with CDOT regarding technical concerns and to provide an update on the PACT process; staff has discussed the potential of a Commerce City Working Group.

On October 30, 2009 CDOT provided a letter to interested parties outlining the process for moving forward on the I-70 EIS and announced the engagement of the Keystone Center to facilitate a collaborative process engaging various stakeholders to build agreement on a recommended preferred alternative for the Final I-70 Environmental Impact Statement (FEIS). The stakeholders were identified by the Keystone Center and have been receiving information about upcoming meetings and the PACT process.

The Keystone Center met in November and December 2009 with various CDOT identified stakeholders including members of City Council, the City Manager and Deputy City Managers. This included the Government Officials update meeting held at CDOT's Region 6 north office attended by members of City Council and staff from the City Manager's Office on December 2, 2009.

On December 14, 2009 the Keystone Center released a Draft Assessment Document outlining their assessment of current situation related to the I-70 DEIS, the collaborative process and their recommendations for moving forward.

Based on input from Commerce City and others, the Keystone Center identified there was some information and data needs that need to be addressed before the full collaborative process can begin.

Staff in the City Manager's Office and staff assigned to the I-70 DEIS project have worked with CDOT staff and consultants to review and refine information provided by CDOT and their consultants to further evaluate the adequacy of the data used in the DEIS.