



City Council of Commerce City

Special Meeting Agenda

Council Chambers, 7887 E. 60th Ave.

Monday, August 29, 2011, 6:30 p.m.

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

Page

1. Call to Order/Roll Call - 6:30

2. Pledge of Allegiance

3. Audience Introduction - 6:35

4. Presentations & Proclamations

a) 6:40 Drawing of candidate names for ballot placement.

5. Citizen Communication - 6:50

A Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address Council will be given the opportunity after signing the roster. Speakers should limit their comments to three minutes.

6. Approval of Minutes - 7:05

a) Regular Meeting Minutes of June 6, 2011

Tab 1

7. Consent Agenda - 7:10

4-6

7. Consent Agenda - 7:10

7-11

a)

Ordinance 1869 AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF COMMERCE CITY, COLORADO AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE FOLLOWING FOUR BALLOT QUESTIONS (1) SHALL THE CITY OF COMMERCE CITY TAXES BE INCREASED BY \$100,000 THE FIRST FULL FISCAL YEAR (2012) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION AND ASSESSMENT OF AN ADDITIONAL TAX IN AN AMOUNT NOT TO EXCEED 7% OF THE GROSS TAXABLE AMOUNT PAID OR CHARGED FOR PURCHASING MARIJUANA, MARIJUANA PARAPHERNALIA, MARIJUANA-INFUSED PRODUCTS, AND SYNTHETIC MARIJUANA PRODUCTS AND TO SPEND CITY REVENUES THEREFROM TO PROMOTE PUBLIC SAFETY; (2) WHETHER THE CITY CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO PROVIDE THAT THE ORGANIZATION MEETING OF THE CITY COUNCIL BE HELD ON THE SECOND MONDAY FOLLOWING CERTIFICATION OF THE RESULTS OF THE ELECTION OF THE MEMBERS OF THE CITY COUNCIL; (3) WHETHER THE CITY CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO REMOVE ALL CITY COUNCIL MEMBERS FROM MEMBERSHIP ON THE PLANNING COMMISSION; AND (4) WHETHER THE CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO AMEND SECTION 4.1, AND TO CLARIFY ALL OTHER PORTIONS OF THE CITY CHARTER, TO PROVIDE THAT THE MAYOR SHALL, FOR PURPOSES OF TERM LIMITS AS PROVIDED IN SECTION 11 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, BE CONSIDERED A POSITION SEPARATE AND APART FROM OTHER MEMBERS OF THE CITY COUNCIL WITH THE TOTAL COMBINED YEARS OF SERVICE NOT TO EXCEED SIXTEEN (16) YEARS AS MAYOR AND A MEMBER OF THE CITY COUNCIL; SETTING FORTH THE BALLOT TITLE, PROVIDING FOR NOTICE OF THE ELECTION, PROVIDING FOR CONDUCT OF THE ELECTION AND PROVIDING FURTHER DETAILS IN RELATION TO THE FOREGOING.

Tab 2

7. Consent Agenda - 7:10

- 12-35 b) **Z-539-91-11** AN ORDINANCE AMENDING ORDINANCE Z-539-91 BY DELETING A ZONING CONDITION FOR THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, AND LOCATED AT 9251 EAST 104TH AVENUE, COMMERCE CITY, COLORADO. **Tab 3**

8. Resolution

- 36-39 a) 7:15 **Resolution 2011-50** A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, TO ISSUE REDEVELOPMENT BONDS IN 2012 AND TO CARRY FORWARD THE 2011 ASSIGNED ALLOCATION IN THE AMOUNT OF \$2,024,925 AND AUTHORIZING ALL ACTIONS NECESSARY THERETO **Tab 4**

9. Study Items

- 40-41 a) 7:40 2012 Budget Presentation **Tab 5**

10. Administrative Council Business - 9:40

11. Reports - 9:55

12. Adjourn to GID Meeting - 10:10

MINUTES
REGULAR MEETING OF
COMMERCE CITY COUNCIL

June 6, 2011

CALL TO ORDER

A regular meeting of the City Council of the City of Commerce City was called to order by Mayor Natale on June 6, 2011, at 6:00 p.m.

ROLL CALL

Present:

Mayor Natale – presiding
Mayor Pro-Tem Snyder – arrived after roll call
Councilman Benson
Councilman Bullock
Councilwoman Carson
Councilman McEldowney
Councilman Moreno
Councilwoman Teter

Staff Reporting:

City Attorney Bob Gehler
City Clerk Laura Bauer

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AMEND AGENDA

Council members Teter and Carson moved and seconded to amend the agenda by deleting audience introduction, citizen communication, administrative Council business, and reports, continue the proclamation and approval of minutes to June 20, 2011, and instruct the city clerk to prepare a verbatim transcript of the sections of the March 28, 2011, meeting pertaining to the Rocky Mountain Arsenal Wildlife Refuge Visitors' Center.

ROLL CALL VOTE: 6 aye, 2 nay (McEldowney, Moreno)

COUNCIL BUSINESS

Discussion of Interview Process

Council discussed the interview format they wanted to use and the questions they wanted to ask each person who has submitted a letter of intent to fill the vacant Council seat.

Council members Carson and Teter moved and seconded that instead of picking three questions to ask each candidate, the candidates would be allowed a specific amount of time to talk to Council.

ROLL CALL VOTE: 3 aye, 5 nay (Moreno, Benson, Snyder, McEldowney, Bullock)

Council members Moreno and McEldowney moved and seconded to pick three (3) questions, sequester the candidates while three questions are asked, and proceed to the interviews.

VOICE VOTE: Unanimous; all present affirmed

Council reached a consensus on asking each candidate the following five questions:

- (1) What is the main reason you are seeking this position?
- (2) Please explain what you see as the most pressing matter for the City Council in the near term, and what you think you can contribute during the remainder of the term you are seeking to fill in order to help solve/overcome this issue?
- (3) The city's image was one of the most concerning issues in recent surveys taken by our citizens. What, if anything, would you do to continue to improve Commerce City's image?
- (4) What would you like to see accomplished short-term and long-term in the north and south parts of the city?
- (5) Please provide us with a brief description of the city budget and Council role in the budgetary process as you understand it; also, please include total budget in dollar amounts, example of key sources of revenue and expenditures.

City Council Vacancy Interviews

Council interviewed the following candidates:

- Tonia Johnson
- Gene Leffel
- Robert Toavs
- Crystal Elliott
- Andrew Hahn
- Paolo Diaz
- Dr. Kristine Sumner
- John Connell
- Joseph Sandoval, Jr.
- Daniel Alire
- E. Michael Formili
- Ellen Haug
- Gordon Hamby
- Lanny Cook
- Kristi Douglas
- Steve Douglas

Council completed a written review of the candidates interviewed and gave the results to the City Clerk to tabulate and determine the top three (3) candidates to be considered for a final vote at the June 13th meeting.

ADJOURNMENT:

The meeting adjourned at 9:30 p.m.

Paul Natale, Mayor

Laura Bauer, City Clerk



Council Communication

City Council Meeting: 29 Aug 2011

Prepared:

Number of Attachments: 1

Subject: AN ORDINANCE SUBMITTING FOUR QUESTIONS TO THE VOTERS AT THE REGULAR MUNICIPAL ELECTION ON NOVEMBER 1, 2011

Presenter: Robert R. Gehler, City Attorney

Recommended City Council Action:

Staff recommends City Council pass ordinance No. 1869 on second reading.

Summary Statement:

City Council has directed the City Attorney to prepare four ballot questions to be submitted to a vote of the registered electors of the City of Commerce City at the regular municipal election to be held by mail ballot on Tuesday, November 1, 2011.

- 1) Whether the City should impose an additional tax in an amount not to exceed 7% of the gross taxable amount paid or charged for purchasing marijuana, marijuana paraphernalia, marijuana-infused products and synthetic marijuana products and to spend City revenues therefrom to promote public safety.
- 2) Whether the City Charter of the City of Commerce City should be changed to provide that the organization meeting of the City Council be held on the second monday following certification of the results of the election of the members of the City Council.
- 3) Whether the City Charter of the City of Commerce City should be changed to remove all City Council members from membership on the Planning Commission.
- 4) Whether the City Charter of the City of Commerce should be changed to amend Section 4.1 and to clarify all other portions of the City Charter, to provide that the Mayor shall, for purposes of term limits as provided in Section 11 of Article XVIII of the Colorado Constitution, be considered a position separate and apart from other

members of the City Council.

Next Steps: Place ballot questions on the November 1, 2011 election.

Expenditure Required: \$17,000

Source of Funds: General Fund - in the budget for 2011

Policy Issue: Should City Council set the ballot language as proposed.

Alternative: City Council could elect not to approve the ballot language as presented.

Background Information:

See the above information and attached ordinance.

ORDINANCE NO. 1869

INTRODUCED BY: BENSON, BULLOCK, CARSON, DIAZ, MORENO, NATALE, SNYDER, TETER

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF COMMERCE CITY, COLORADO AT THE REGULAR MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 1, 2011, THE FOLLOWING FOUR BALLOT QUESTIONS (1) SHALL THE CITY OF COMMERCE CITY TAXES BE INCREASED BY \$100,000 THE FIRST FULL FISCAL YEAR (2012) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION AND ASSESSMENT OF AN ADDITIONAL TAX IN AN AMOUNT NOT TO EXCEED 7% OF THE GROSS TAXABLE AMOUNT PAID OR CHARGED FOR PURCHASING MARIJUANA, MARIJUANA PARAPHERNALIA, MARIJUANA-INFUSED PRODUCTS, AND SYNTHETIC MARIJUANA PRODUCTS AND TO SPEND CITY REVENUES THEREFROM TO PROMOTE PUBLIC SAFETY; (2) WHETHER THE CITY CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO PROVIDE THAT THE ORGANIZATION MEETING OF THE CITY COUNCIL BE HELD ON THE SECOND MONDAY FOLLOWING CERTIFICATION OF THE RESULTS OF THE ELECTION OF THE MEMBERS OF THE CITY COUNCIL; (3) WHETHER THE CITY CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO REMOVE ALL CITY COUNCIL MEMBERS FROM MEMBERSHIP ON THE PLANNING COMMISSION; AND (4) WHETHER THE CHARTER OF THE CITY OF COMMERCE CITY SHOULD BE CHANGED TO AMEND SECTION 4.1, AND TO CLARIFY ALL OTHER PORTIONS OF THE CITY CHARTER, TO PROVIDE THAT THE MAYOR SHALL, FOR PURPOSES OF TERM LIMITS AS PROVIDED IN SECTION 11 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, BE CONSIDERED A POSITION SEPARATE AND APART FROM OTHER MEMBERS OF THE CITY COUNCIL WITH THE TOTAL COMBINED YEARS OF SERVICE NOT TO EXCEED SIXTEEN (16) YEARS AS MAYOR AND A MEMBER OF THE CITY COUNCIL; SETTING FORTH THE BALLOT TITLE, PROVIDING FOR NOTICE OF THE ELECTION, PROVIDING FOR CONDUCT OF THE ELECTION AND PROVIDING FURTHER DETAILS IN RELATION TO THE FOREGOING.

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

SECTION 1. At the regular municipal election to be held by mail ballot on Tuesday, the first day of November, 2011, between the hours of 7:00 a.m. and 7:00 p.m., there shall be submitted to a vote of the registered electors of the City of Commerce City the questions herein authorized.

SECTION 2. At the said election the official ballot, including absentee ballots, shall state the substance of the questions to be voted upon and so stated shall constitute the ballot title, designation and submission clause for each question and each registered elector voting at the election shall indicate his or her choice on the questions submitted which shall be in the following form:

QUESTION NO. 1

SHALL THE CITY OF COMMERCE CITY TAXES BE INCREASED BY \$100,000 THE FIRST FULL FISCAL YEAR (2012) AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER THROUGH THE IMPOSITION AND ASSESSMENT OF ADDITIONAL TAX IN AN AMOUNT NOT TO EXCEED SEVEN PERCENT (7%) OF THE GROSS TAXABLE AMOUNT PAID OR CHARGED FOR PURCHASING MARIJUANA, MARIJUANA PARAPHERNALIA, MARIJUANA-INFUSED PRODUCTS, AND SYNTHETIC

MARIJUANA PRODUCTS AND SHALL ALL REVENUES DERIVED FROM SUCH TAX BE COLLECTED AND SPENT TO PROMOTE PUBLIC SAFETY FOR THE CITY OF COMMERCE CITY AS A VOTER-APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATIONS CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____

NO _____

QUESTION NO. 2

SHALL THE HOME RULE CHARTER OF THE CITY OF COMMERCE CITY BE AMENDED TO PROVIDE IN SECTION 4.3(a), SECTION 4.3(d), AND SECTION 4.5(b) THAT THE ORGANIZATION MEETING OF THE CITY COUNCIL BE HELD ON THE SECOND MONDAY FOLLOWING CERTIFICATION OF THE RESULTS OF THE ELECTION OF THE MEMBERS OF THE CITY COUNCIL?

YES _____

NO _____

QUESTION NO. 3

SHALL SECTION 10.1 AND SECTION 10.2 OF THE HOME RULE CHARTER OF THE CITY OF COMMERCE CITY BE AMENDED TO REMOVE CITY COUNCIL MEMBERS FROM MEMBERSHIP ON THE PLANNING COMMISSION AND TO PROVIDE THAT ALL FIVE MEMBERS OF THE PLANNING COMMISSION SHALL BE RESIDENTS OF THE CITY OF COMMERCE CITY WITH THREE-YEAR TERMS OF OFFICE STAGGERED IN ORDER THAT THE TERMS OF NO MORE THAN TWO MEMBERS SHALL EXPIRE IN THE SAME YEAR?

YES _____

NO _____

QUESTION NO. 4

SHALL THE HOME RULE CHARTER OF THE CITY OF COMMERCE CITY BE AMENDED TO CHANGE SECTION 4.1, AND TO CLARIFY ALL OTHER PORTIONS OF THE CITY CHARTER, TO PROVIDE THAT THE MAYOR SHALL, FOR PURPOSES OF TERM LIMITS AS PROVIDED IN SECTION 11 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, BE CONSIDERED A POSITION SEPARATE AND APART FROM OTHER MEMBERS OF THE CITY COUNCIL WITH THE TOTAL COMBINED YEARS OF SERVICE NOT TO

EXCEED SIXTEEN (16) YEARS AS MAYOR AND A MEMBER OF THE CITY COUNCIL?

YES _____

NO _____

SECTION 3. If a majority of all the votes cast at the election shall be for any of the foregoing ballot questions, the ballot questions receiving such majority votes shall be deemed passed and the City of Commerce City shall be authorized and directed to take such action as shall be necessary to comply with each approved ballot issue.

SECTION 4. If any section, paragraph, clause or provision of this ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this ordinance.

SECTION 5. All resolutions, ordinances, agreements or parts thereof inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution, ordinance, agreement or part thereof heretofore repealed.

SECTION 6. This City Council finds and declares that this ordinance is a matter of local concern pursuant to Article XX, Section 6, of the Colorado Constitution.

SECTION 7. This ordinance shall be in full force and effect September 2, 2011.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 15TH DAY OF AUGUST, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 29TH DAY OF AUGUST, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



Council Communication

City Council Meeting: 29 Aug 2011

Prepared: 21 Jul 2011

Number of Attachments: 10

Subject: Case #Z-539-91-11

Presenter: Jenny Axmacher. Planner

Recommended City Council Action:

Staff recommends approval of Ordinance Z-539-91-11 on second reading. On July 5, 2011, the Planning Commission held a public hearing, took testimony, and voted (3-2) to forward the request to City Council with a favorable recommendation, subject to the findings of fact.

Summary Statement:

The applicant, Schlumberger Technology Corp. requests to remove an existing condition on the property's zoning in order to allow for onsite outdoor storage. The applicant wishes to utilize the northern portion of their existing site for the outdoor storage of steel racks, equipment and storage containers. The applicant intends to install fencing and landscaping along the site to prevent the storage from being visible from the right-of-way as well as pave the northern portion of the site with a dust free surface. The current zoning of the site has a condition prohibiting outdoor storage on the site therefore the applicant is requesting to amend the zoning and remove this condition.

Next Steps:

Expenditure Required: N/A

Source of Funds: N/A

Policy Issue: N/A

Alternative: One option would be for City Council to approve the request as submitted by the applicant; a second option would be to approve the request subject to conditions; a third option would be for City Council to deny the request.

Background Information:

Please see attached Planning Commission minutes for detailed background and discussion

ORDINANCE NO: Z-539-91-11

INTRODUCED BY: BENSON, BULLOCK, DIAZ, MCELLOWNEY, MORENO,
NATALE, SNYDER, TETER

AN ORDINANCE AMENDING ORDINANCE Z-539-91 BY DELETING A ZONING CONDITION FOR THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, AND LOCATED AT 9251 EAST 104TH AVENUE, COMMERCE CITY, COLORADO.

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 on July 5, 2011 concerning the property described in Exhibit "A" ("Property"), and that said Notice was published on June 28, 2011 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 August 1, 2011 regarding the Property, and that said Notice was published on July 19, 2011 and that said Hearing was conducted all in compliance with law.

SECTION 3. That Ordinance No. Z-539-91 is hereby amended by repealing Condition C of said ordinance.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED this 1st day of August, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED this 29th day of August, 2011.

CITY OF COMMERCE CITY, COLORADO

BY _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, City Clerk

Exhibit "A"
LEGAL DESCRIPTION
Case #Z-539-91-11

Part of the South $\frac{1}{2}$ of Section 10, Township 2 South, Range 67 West of the 6th Principal Meridian, County of Adams, State of Colorado, lying North and West of the Union Pacific Railroad Company right of way, South and East of U. S. Highway No. 85 and North of East 104th Avenue, subordinately described as follows:

Commencing at the South $\frac{1}{4}$ corner of said Section 10;

Thence South $89^{\circ}56'00''$ West coincident with the Southerly line of said Section 10 a distance of 1342.29 feet to the Westerly right of way line of the Union Pacific Railroad;

Thence North $31^{\circ}03'00''$ East coincident with said Westerly right of way line of the Union Pacific Railroad a distance of 35.07 feet to a point that is 30 feet Northerly of said Southerly line of Section 10, being the point of beginning;

Thence South $89^{\circ}56'00''$ West parallel with and 30 feet Northerly of said Southerly line of Section 10, a distance of 488.45 feet to the Easterly right of way line of U. S. Highway No. 85;

Thence coincident with said Easterly right of way line of U. S. Highway No 85 the following three courses:

4. North $18^{\circ}44'26''$ West a distance of 51.86 feet;
5. North $41^{\circ}25'55''$ East a distance of 2021.75 feet to a point of curvature;
6. an arc length of 939.65 feet to the left, through a central angle of $9^{\circ}16'28''$, having a radius of 5805.00 feet, a chord bearing of North $36^{\circ}42'06''$ East with a chord distance of 938.63 feet;

Thence South $58^{\circ}57'00''$ East a distance of 1.00 feet to said Westerly right of way line of the Union Pacific Railroad;

Thence South $31^{\circ}03'00''$ West coincident with said Westerly right of way line of the Union Pacific Railroad a distance of 2703.77 feet to the point of beginning,
County of Adams, State of Colorado.

CASE Z-539-91-11: Ms. Stevens introduced case #Z-539-91-11, noted that the file contained the relevant notice information, and introduced Jenny Axmacher to present the case.

Mrs. Jenny Axmacher explained the applicant's request to the Planning Commission. She stated that the applicant was requesting to remove a zoning condition to allow for outdoor storage at the property located at 9251 East 104th Avenue, Commerce City, CO 80022. Mrs. Axmacher explained that the site was annexed and zoned in 1991 with three conditions as part of the zoning. Those conditions are:

- A. This action shall not create a vested property right pursuant to Article #68 of Title #24, Colorado Revised Statutes.
- B. Uses by Right on this property are limited to those which are considered by the Zoning Conditional Uses, except those which are Uses by Right in other zone districts.
- C. Notwithstanding Condition "B" above, there shall be no outside storage on this property.

The applicant is currently requesting to remove Condition C. Conditions A and B will remain. The applicant is proposing to utilize the northern undeveloped portion of their existing site for the outdoor storage of steel racks, equipment, and storage containers. As part of the request, the applicant would also install fencing and landscaping along the site to prevent the outside storage from being visible from the right-of-way as well as pave the northern portion of the site with a dust free surface. Mrs. Axmacher noted that the Development Review Team (DRT) was concerned with the potential impact the project might have on the Belle Creek neighborhood to the west. However, Schlumberger Technology Corporation proposed to meet all the standards with this project and the DRT felt that the proposal would meet the current use of the surrounding area. The Development Review Team recommends that the Planning Commission forward the Zoning Amendment request to the City Council with a favorable recommendation. Mrs. Axmacher introduced the Applicant.

Mr. Rod Middleton, Western Region Manager for Schlumberger Pathfinder, was available to answer questions from the Planning Commission. Mr. Middleton stated that the onsite outside storage would reduce traffic between their previous facility and the current facility. Due to refinishing of the floor inside the facility, the site is currently being used for outdoor storage. In response to Mr. Dreiling's concern about the height of the fence, Mr. Middleton

presented landscape plans that display trees along the site that would prevent the outside storage from being visible from the right-of-way. He added that steel stacks would not exceed a height of 43 inches and that the storage containers would range from 6 to 8 ft. in height. Mr. Middleton demonstrated previous photographs of the property and stated that major improvements have been made to the property over time. Mr. Middleton thanked the Planning Commission for considering the request; he also thanked Mrs. Axmacher and the Development Review Team for their consideration.

There being no further discussion on the subject case, Mr. McFarlin requested a motion.

Mr. Cammack made the following motion: "I move that the Planning Commission enter a finding that the requested Zoning Amendment for the property located at 9251 East 104th Avenue contained in case Z-539-91-11 meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zoning Amendment." Mr. Jones seconded the motion.

Voice Vote: 3 yes, 2 no (Dreiling, Adair)

Discussion on motion: Mr. Dreiling was concerned with the height of the fence. He was worried that the fence would not screen the steel racks, equipment, and storage containers.



STAFF REPORT

Planning Commission

CASE #Z-539-91-11

PC Date:	July 5, 2011	Case Planner:	Jenny Axmacher
CC Date:	August 1, 2011	2nd CC Date:	September 12, 2011
Location:	9251 East 104th Avenue		
Applicant:	Schlumberger Tech. Corp.	Owner:	Same as Applicant
Address:	9251 East 104 th Avenue	Address:	Same as Applicant

Case Summary

Request:	The applicant requests to remove an existing condition on the property's zoning in order to allow for on site outdoor storage.
Project Description:	The applicant wishes to utilize the northern portion of their existing site for the outdoor storage of steel racks, equipment and storage containers. The applicant intends to install fencing and landscaping along the site to prevent the storage from being visible from the right-of-way as well as pave the northern portion of the site with a dust free surface. The current zoning of the site has a condition prohibiting outdoor storage on the site therefore the applicant is requesting to amend the zoning and remove this condition to allow for outdoor storage. It is important to note that this case was submitted prior to the adoption of the current comprehensive plan and therefore this case was reviewed under the previous comprehensive plan document.
Issues/Concerns:	<ul style="list-style-type: none">• Impacts to the surrounding area, especially Belle Creek• Visibility in a high profile Hwy 85/104th Ave corridor/activity center
Key Approval Criteria:	<ul style="list-style-type: none">• Compatibility with surrounding land uses• Harmony with the Comprehensive Plan
Staff Recommendation:	Approval
Current Zone District:	I-3 (Heavy Intensity Industrial District) with 3 conditions.
Comp Plan Designation:	Industrial (The project was submitted under the previous Comp Plan)

Attachments for Review: *Checked if applicable to case.*

- | | |
|---|---|
| <input checked="" type="checkbox"/> Applicant's Narrative Summary | <input checked="" type="checkbox"/> Vicinity Map |
| <input type="checkbox"/> Development Review Team Recommendation | <input type="checkbox"/> Neighborhood Meeting Notes |
| <input checked="" type="checkbox"/> Site Plan | <input type="checkbox"/> |

Background Information

Site Information

Site Size:	12.47 acres
Current Conditions:	Developed and occupied by Schlumberger Tech. Corp/Pathfinder
Existing Right-of-Way:	Hwy 85 and E. 104th Ave (recently expanded)
Existing Roads:	Hwy 85 and E. 104th Ave (under construction)
Existing Buildings:	96,582 S.F. of existing building
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Residential	Belle Creek Neighborhood	PUD
South	Residential	Undeveloped	ADCO
East	Residential	Union Pacific Railroad right-of-way and Industrial Development	I-3
West	Residential	McDonalds and future Belle Creek commercial development	PUD

Case History

This site was annexed and zoned in 1991. When the property was zoned I-3 in 1991, three conditions were approved as part of the zoning. Those conditions are:

- A. This action shall not create a vested property right pursuant to Article #68 of Title #24, Colorado Revised Statutes.
- B. Uses by Right on this property are limited to those which are considered by the Zoning Ordinance to be Uses by Right in the 1-2 zone district. All 1-3 uses shall be processed as Conditional Uses, except those which are Uses by Right in other zone districts.
- C. Notwithstanding Condition "B" above, there shall be no outside storage on this property.

Schlumberger is currently requesting to remove condition C. Conditions A and B will remain.

Proposal Description

The applicant is proposing to use the northern undeveloped portion of the site for outdoor storage. The storage materials would include steel racks, equipment, storage containers and trailers. As part of the proposal, the area used for storage would be paved with recycled asphalt, screened with a 6 foot high simulated stone fence and a 20 foot landscaped buffer in compliance with Land Development Code requirements. The applicant states that "the additional storage will enable us to operate in a more efficient manner by allowing equipment needed on a daily basis to be stored at the facility. "

In addition to the outdoor storage, the applicant is also proposing to utilize an existing paved area on the west side of the site for additional parking. This area will also be screened and landscaped.

Separate from this project, the City has acquired additional right-of-way from this property for the 104th avenue expansion project. The roadway expansion will alter the access to the property from 104th avenue, restricting it to a right in, right out as well as reconfigure the parking area and landscaping adjacent to 104th avenue.

Development Review Team Analysis

The Development Review Team gave careful consideration to how this proposal would impact the adjacent neighborhood of Belle Creek as well as the visual aesthetics of the outdoor storage in such a high profile city corridor. Schlumberger's proposal meets the City's landscape standards and exceeds the fencing requirements by using simulated stone fencing material instead of just cedar pickets. Ultimately, the DRT felt that Schlumberger's proposal did a good job of assuring that the storage would not be visible from the surrounding area as well as making significant improvements to the appearance of the 104th and Hwy 85 intersection. As a result, staff feels that this proposal will be harmonious with the surrounding area and meet the intent of the comprehensive plan.

Due to the proximity to Belle Creek, Staff requested that Schlumberger conduct a neighborhood meeting. The neighborhood meeting occurred on May 12th. Three people attended and expressed no concerns over the proposal for outdoor storage.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
<input type="checkbox"/>	The change corrects a technical mistake by the city.	Not applicable in this case.
OR		
<input checked="" type="checkbox"/>	The change is consistent with any City adopted plans for the area;	The Comprehensive Plan in effect when this application was made to the City had this area categorized for industrial development along with an activity center at the intersection of 104 th and Hwy 85. Schlumberger's proposal is harmonious with the comprehensive plan's intent for industrial land uses and provides the higher level of aesthetics the City would expect at an activity center.
<input checked="" type="checkbox"/>	The change is compatible with proposed development, surrounding land uses and the natural environment;	The applicant's proposal meets the City's requirements for screening and buffering the proposed outdoor storage from adjacent land uses. The outdoor storage will not negatively impact the near-by residences in Belle Creek and the project will provide a significant visual improvement to the west side of Hwy 85, similar in nature to what Belle Creek has as far as fencing and landscaping.
<input checked="" type="checkbox"/>	There is, or will be, adequate public services, (water, sewerage, streets, drainage, etc.);	Additional fire protection for the site is incorporated as part of this proposal as well the ability to construct future drainage improvements for First Creek. The 104th avenue construction project also previously acquired additional right-of-way for 104 th avenue from this site.
<input checked="" type="checkbox"/>	There is, or will be, adequate public uses (parks, schools, and open space);	No additional parks, school or public uses are required as a part of the project.
<input checked="" type="checkbox"/>	The change is needed to provide/maintain a proper mix of uses in the area/City;	Much of the area to the east and south of the site is zoned I-3 and used industrially. While Schlumberger's site is also zoned I-3, the restrictions on the zoning of the property significantly limit its use compared to the surrounding area. By removing one of the three conditions and allowing outdoor storage on site, this property will be more compatible with the existing industrial properties to the east of the subject site.

Criteria Met?	Sec. 21-3232. Rezoning or Zone Changes	Rationale
☒	The area for which the change is requested has changed/is changing and it is in the public interest to allow a new use or density.	The area of the site Schlumberger is proposing to utilize for outdoor storage is awkwardly shaped which limits its future development potential. If the area were not used for storage it would likely remain undeveloped or at most used for parking. Neither of these potential uses would provide as much of a visual improvement to the area as what Schlumberger is currently proposing.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Zoning Amendment set forth in the Land Development Code and recommends that the Planning Commission forward the Zoning Amendment request to the City Council with a favorable recommendation.

The reasons for the favorable recommendation include:

- The proposed screening and landscaping will protect Belle Creek.
- The project allows for better utilization of an awkwardly shaped lot.

Alternatives / Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Zoning Amendment for the property located at **9251 E. 104th Ave** contained in case **Z-539-91-11** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zoning Amendment.

To recommend approval subject to condition(s):

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Zoning Amendment for the property located at **9251 E. 104th Ave** contained in case **Z-539-91-11** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Zoning Amendment subject to the following conditions:

Insert Condition(s)

To recommend denial:

I move that the Planning Commission enter a finding that the requested Zoning Amendment for the property located at **9251 E. 104th Ave** contained in case **Z-539-91-11** fails to meet the following criteria of the Land Development Code:

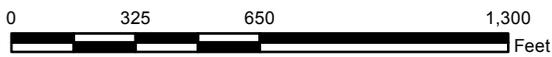
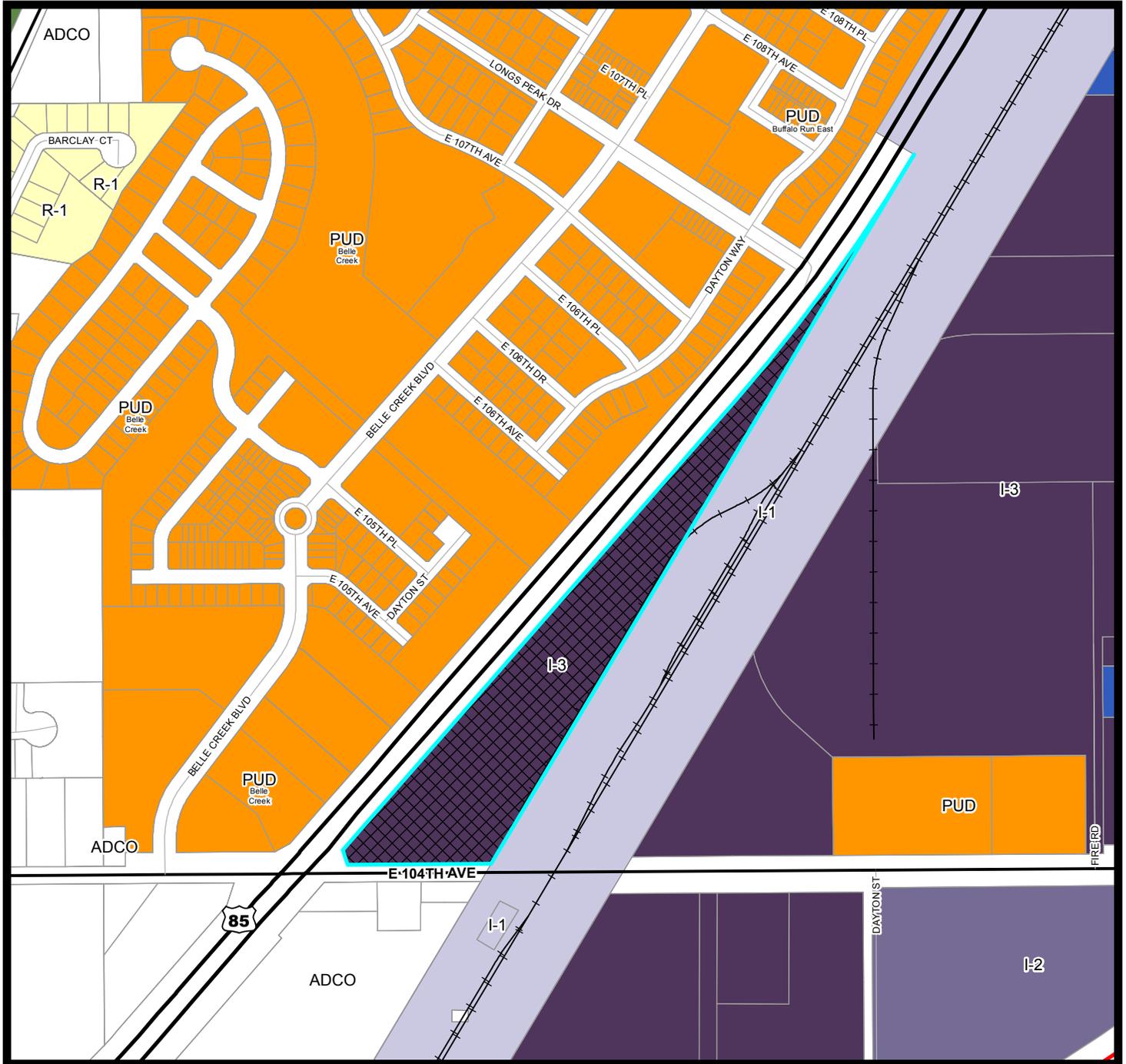
List the criteria not met

I further move that, based upon this finding, the Planning Commission recommend that the City Council deny the Zoning Amendment.



Commerce City Vicinity Map

Z-539-91-11



Area shown is approx. 1/4 mile square

PIN: 172110000046

Prepared By: J. Axmacher

Printing Date: 6/30/11

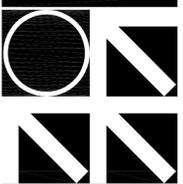
File:539.mxd

Commerce City Planning Department



Legend

- Subject Property
- AG - Agricultural District
- C-1 - Local Commercial District
- C-2 - General Commercial District
- C-3 - Regional Commercial District
- I-1 - Light Intensity Industrial District
- I-1S - Industrial Park Storage District
- I-2 - Medium Intensity Industrial District
- I-3 - Heavy Intensity Industrial District
- MU-1 - Mixed Use District
- MHP - Mobile Home Park District
- PUBLIC - Public District
- PUD - Planned Unit Development District
- R-1 - Single-Family Detached Residential District
- R-2 - Single-Family Attached Residential District
- R-3 - Multi-Family Residential District
- R-4 - Townhouse Residential District
- RU - Residential Unit District
- ADCO - Unincorporated Adams County



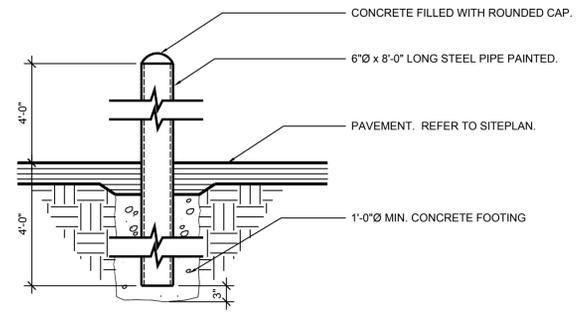
DATE	
05.28.10	DEV. PLAN SUBMITTAL
05.12.11	NEIGHBORHOOD MEETING
05.19.11	DEV. PLAN RESUBMITTAL

CITY STAFF CERTIFICATE: Approved by the Department of Community Development of the City of Commerce City, this ____ day of ____ AD. ____ Department of Community Development Signature
CITY COUNCIL CERTIFICATE: Approved by the City Council of Commerce City, this ____ day of ____ AD. ____ City Signature

PROJECT DATA:	
GROSS SITE AREA:	12.447 ACRES
NET SITE AREA:	11.488 ACRES
BUILDING AREA:	BUILDING 1: 55,523 S.F. BUILDING 2: 41,059 S.F. TOTAL: 96,582 S.F.
NET LANDSCAPE AREA:	24,983 S.F. (@ OUTDOOR STORAGE AREA ONLY)
LOT COVERAGE:	82,267 S.F. = 15%
F.A.R.:	.18
EXISTING PARKING:	106 SPACES + 4 HC
PARKING LOST DUE TO CONDEMNATION:	19 SPACES
PARKING ADDED DUE TO CONDEMNATION:	19 SPACES
PARKING ADDED DUE TO ACTUAL OUTDOOR STORAGE:	59 SPACES (1 SPACE/2500 SF - 147,947 SF/2500 SF=59 SPACES)
TOTAL PARKING REQUIRED:	165 SPACES + 4 HC = 169 SPACES
TOTAL PARKING PROVIDED:	176 SPACES + 4 HC = 180 SPACES
CONSTRUCTION TYPE:	TYPE II-B, SPRINKLERED
OCCUPANCY:	A-2, B, F-1
ZONING:	CURRENT: I-3, WITH RESTRICTIONS PROPOSED: I-3, REMOVE OUTDOOR STORAGE RESTRICTION
EST. NUMBER OF EMPLOYEES:	233

NOTES:

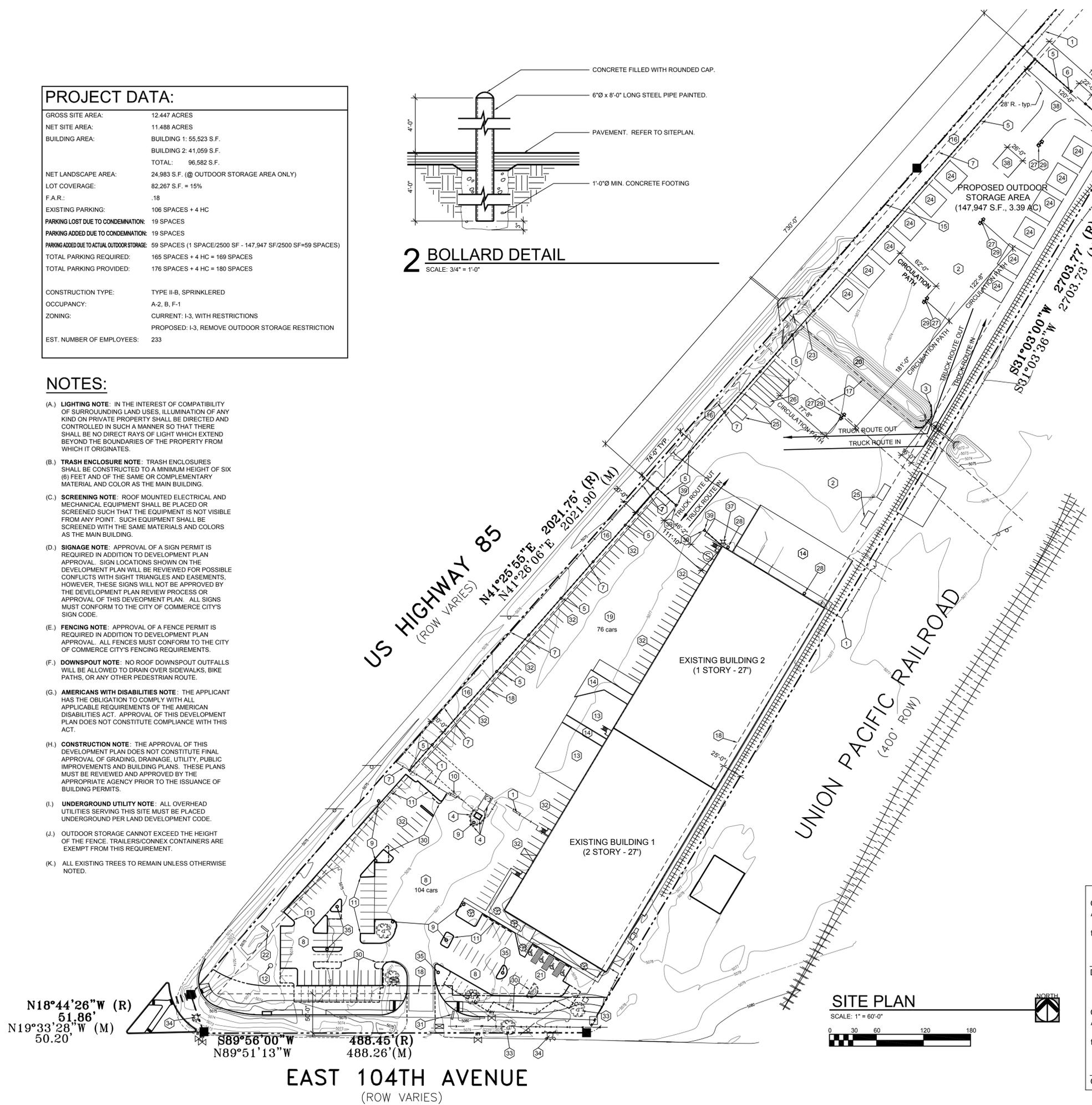
- (A) **LIGHTING NOTE:** IN THE INTEREST OF COMPATIBILITY OF SURROUNDING LAND USES, ILLUMINATION OF ANY KIND ON PRIVATE PROPERTY SHALL BE DIRECTED AND CONTROLLED IN SUCH A MANNER SO THAT THERE SHALL BE NO DIRECT RAYS OF LIGHT WHICH EXTEND BEYOND THE BOUNDARIES OF THE PROPERTY FROM WHICH IT ORIGINATES.
- (B) **TRASH ENCLOSURE NOTE:** TRASH ENCLOSURES SHALL BE CONSTRUCTED TO A MINIMUM HEIGHT OF SIX (6) FEET AND OF THE SAME OR COMPLEMENTARY MATERIAL AND COLOR AS THE MAIN BUILDING.
- (C) **SCREENING NOTE:** ROOF MOUNTED ELECTRICAL AND MECHANICAL EQUIPMENT SHALL BE PLACED OR SCREENED SUCH THAT THE EQUIPMENT IS NOT VISIBLE FROM ANY POINT. SUCH EQUIPMENT SHALL BE SCREENED WITH THE SAME MATERIALS AND COLORS AS THE MAIN BUILDING.
- (D) **SIGNAGE NOTE:** APPROVAL OF A SIGN PERMIT IS REQUIRED IN ADDITION TO DEVELOPMENT PLAN APPROVAL. SIGN LOCATIONS SHOWN ON THE DEVELOPMENT PLAN WILL BE REVIEWED FOR POSSIBLE CONFLICTS WITH SIGN TRIANGLES AND EASEMENTS, HOWEVER, THESE SIGNS WILL NOT BE APPROVED BY THE DEVELOPMENT PLAN REVIEW PROCESS OR APPROVAL OF THIS DEVELOPMENT PLAN. ALL SIGNS MUST CONFORM TO THE CITY OF COMMERCE CITY'S SIGN CODE.
- (E) **FENCING NOTE:** APPROVAL OF A FENCE PERMIT IS REQUIRED IN ADDITION TO DEVELOPMENT PLAN APPROVAL. ALL FENCES MUST CONFORM TO THE CITY OF COMMERCE CITY'S FENCING REQUIREMENTS.
- (F) **DOWNSPOUT NOTE:** NO ROOF DOWNSPOUT OUTFALLS WILL BE ALLOWED TO DRAIN OVER SIDEWALKS, BIKE PATHS, OR ANY OTHER PEDESTRIAN ROUTE.
- (G) **AMERICANS WITH DISABILITIES NOTE:** THE APPLICANT HAS THE OBLIGATION TO COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THE AMERICAN DISABILITIES ACT. APPROVAL OF THIS DEVELOPMENT PLAN DOES NOT CONSTITUTE COMPLIANCE WITH THIS ACT.
- (H) **CONSTRUCTION NOTE:** THE APPROVAL OF THIS DEVELOPMENT PLAN DOES NOT CONSTITUTE FINAL APPROVAL OF GRADING, DRAINAGE, UTILITY, PUBLIC IMPROVEMENTS AND BUILDING PLANS. THESE PLANS MUST BE REVIEWED AND APPROVED BY THE APPROPRIATE AGENCY PRIOR TO THE ISSUANCE OF BUILDING PERMITS.
- (I) **UNDERGROUND UTILITY NOTE:** ALL OVERHEAD UTILITIES SERVING THIS SITE MUST BE PLACED UNDERGROUND PER LAND DEVELOPMENT CODE.
- (J) **OUTDOOR STORAGE CANNOT EXCEED THE HEIGHT OF THE FENCE. TRAILERS/CONNEX CONTAINERS ARE EXEMPT FROM THIS REQUIREMENT.**
- (K) **ALL EXISTING TREES TO REMAIN UNLESS OTHERWISE NOTED.**



2 BOLLARD DETAIL
SCALE: 3/4" = 1'-0"

KEY NOTES:

1. EXISTING CHAIN LINK FENCE AND GATE TO REMAIN.
2. NEW RECYCLED ASPHALT PAVING - 3" MIN. DEPTH.
3. NEW HEAVY DUTY ROADWAY GUARDRAIL.
4. EXISTING GUARD SHACK, CONCRETE CURB AND BOLLARDS TO REMAIN.
5. NEW 6" HIGH SIMULATED STONE FENCE / SCREEN WITH 2' X 2' SPLIT-FACED CMU PIERS WITH PRECAST CONCRETE CAP. FENCE CONTRACTOR TO VERIFY IF PIERS CAN BE ERRECTED IN EXISTING 50' WIDE GAS EASEMENT.
6. NEW AUTOMATIC SLIDING METAL GATE WITH WOOD SLATS. COORDINATE CARD ACCESS LOCATIONS WITH THE OWNER.
7. EXISTING CHAIN LINK FENCE TO BE REMOVED.
8. EXISTING ASPHALT PAVED PARKING AREA WITH 9' X 18' STANDARD PARKING SPACES.
9. EXISTING LIGHT POLE AND FIXTURE TO REMAIN.
10. PROVIDE NEW AUTO OPENER AT EXISTING GATE. COORDINATE CARD ACCESS LOCATIONS WITH THE OWNER.
11. EXISTING 6" CONCRETE CURB, TYP.
12. EXISTING FLAGPOLE TO REMAIN.
13. EXISTING CONCRETE PAVING.
14. EXISTING CONCRETE TRUCK RAMP.
15. EXISTING BARBED WIRE FENCE TO BE REMOVED WHERE NEW SCREEN WALL WILL BE PROVIDED. REMAINING BARBED WIRE FENCE TO BE JOINED TO THE NEW SCREEN WALL AT THE NORTHWEST CORNER.
16. IRRIGATED LANDSCAPE AREA. SEE LANDSCAPE DRAWINGS.
17. EXISTING 50' GAS EASEMENT.
18. BUILDING SETBACK LINE.
19. EXISTING ASPHALT PAVED TRUCK AREA.
20. EXISTING DRAINAGE DITCH.
21. EXISTING HANDICAP PARKING.
22. EXISTING MONUMENT SIGN TO REMAIN.
23. 6" X 6" STEEL MESH TO EXTEND FROM THE BOTTOM OF THE FENCE INTO THE BOTTOM OF THE DRAINAGE DITCH. FENCE CONTRACTOR TO MODIFY THE FENCE AT THIS LOCATION TO SPAN ACROSS THE DRAINAGE DITCH.
24. PIPE RACK (30' X 30' X 43" HIGH WITH PIPE).
25. CONNEX CONTAINER MODIFIED F/ PURPOSE. (9W X 20L X 8' HIGH)
26. WELLS CARGO TYPE TRAILERS MODEL : EW0G2624W WHITE - A/C ON ROOF (8W X 35L X 8H)
27. NEW LIGHT POLE AND FIXTURE. SEE PHOTOMETRIC PLAN.
28. NEW BLDG MOUNTED LIGHT FIXTURE. SEE PHOTOMETRIC PLAN.
29. PROVIDE (4) 6" DIA. X 4'-0" CONCRETE FILLED STEEL PIPE BOLLARDS AROUND EACH LIGHT POLE TYP. PAINT SAFETY YELLOW.
30. EXISTING 6" CONCRETE CURB TO BE REMOVED BY OTHERS AS A PART OF CONDEMNATION.
31. EXISTING MONUMENT SIGN TO BE RELOCATED BY OTHERS.
32. NEW 9' X 18' PARKING SPACES.
33. EXISTING TREE TO BE REMOVED BY OTHERS AS A PART OF CONDEMNATION.
34. EXISTING FIRE HYDRANT TO BE REMOVED/RELOCATED BY OTHERS AS A PART OF CONDEMNATION.
35. RELOCATED EXISTING LIGHT POLE BY OTHERS AS A PART OF CONDEMNATION.
36. EXISTING 16'-0" WIDE ACCESS DRIVE.
37. PROVIDE NEW FIRE HYDRANT - PAINT RED. PROVIDE PIPE BOLLARDS AS NEEDED. SEE CIVIL.
38. DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND. NO STORAGE ALLOWED IN THIS AREA.
39. PROVIDE NEW 6" DIA. X 4'-0" H. (7'-0" TOTAL LENGTH)/CONCRETE FILLED STEEL STEEL PIPE BOLLARD ON BOTH SIDES OF MASONRY PILASTER. PAINT SAFETY YELLOW.



SITE PLAN

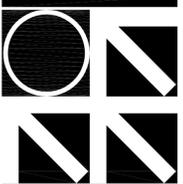
SCALE: 1" = 60'-0"



N18°44'26"W (R)
51.86'
N19°33'28"W (M)
50.20'

S89°56'00"W
488.45'(R)
N89°51'13"W
488.26'(M)

EAST 104TH AVENUE
(ROW VARIES)



intergroup
Architects

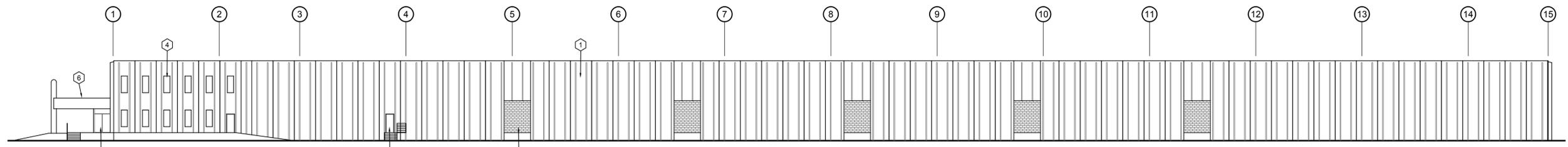
architecture
planning &
interiors
2000 West Littleton Blvd
Littleton, Colorado 80120
www.intergrouparchitects.com
303 738 8877 / 303 738 2294 fax

copyright 2011
These plans and written material are instruments of service and are the property of Intergroup, Inc. and may not be duplicated, disclosed or reproduced without the written consent of the Architect. Infringements will be prosecuted.

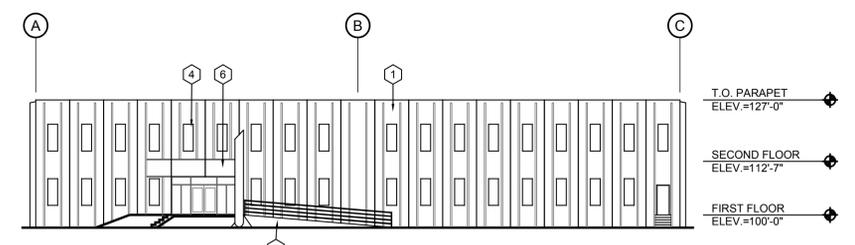
SCHLUMBERGER - Zone Change
9251 E. 104th AVENUE
COMMERCE CITY, COLORADO

DATE
05.28.10 DEV. PLAN SUBMITTAL
05.12.11 NEIGHBORHOOD MEETING
05.19.11 DEV. PLAN RESUBMITTAL

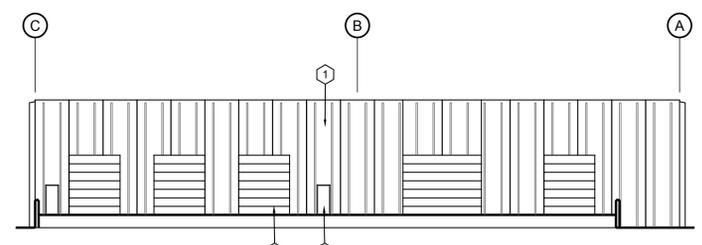
DP-2
ELEVATIONS



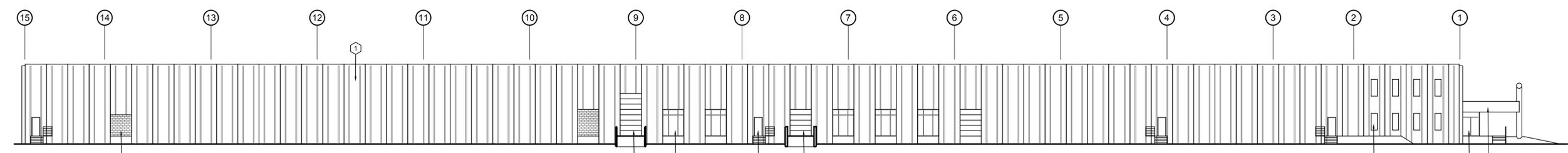
1 EAST ELEVATION
SCALE: 1" = 20'
EXISTING BUILDING TO REMAIN. NO NEW EXTERIOR WORK.



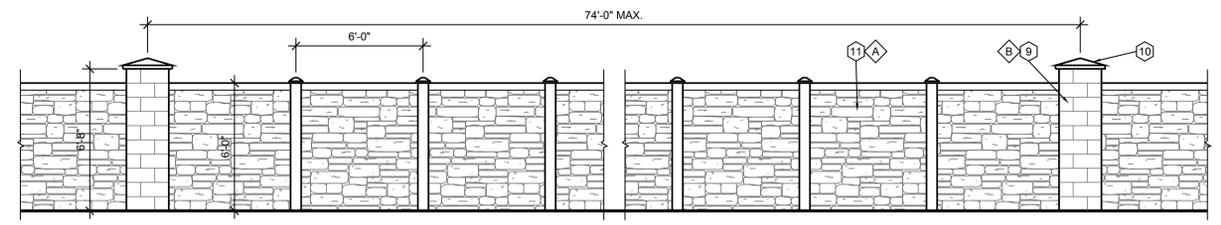
2 SOUTH ELEVATION
SCALE: 1" = 20'
EXISTING BUILDING TO REMAIN. NO NEW EXTERIOR WORK.



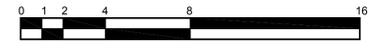
3 NORTH ELEVATION
SCALE: 1" = 20'
EXISTING BUILDING TO REMAIN. NO NEW EXTERIOR WORK.



4 WEST ELEVATION
SCALE: 1" = 20'
EXISTING BUILDING TO REMAIN. NO NEW EXTERIOR WORK.



5 PARTIAL FENCE / SCREEN ELEVATION
SCALE: 1/4" = 1'-0"



KEY NOTES:

- 1. EXISTING PRECAST CONCRETE DOUBLE TEES.
- 2. EXISTING OVERHEAD DOOR.
- 3. EXISTING STOREFRONT.
- 4. EXISTING WINDOW.
- 5. EXISTING HOLLOW METAL DOOR.
- 6. EXISTING CANOPY.
- 7. EXISTING RAMP.
- 8. EXISTING CMU INFILL.
- 9. 2' x 2' CMU PIER.
- 10. PRECAST CONCRETE CAP.
- 11. SIMULATED STONE FENCE PANEL.

MATERIAL LEGEND

SYMBOL	DESCRIPTION	MANUF./COLOR
	SIMULATED STONE FENCE PANEL	SIMTEK - "GRANITE BROWN"
	SPLIT FACE CMU	BEST BLOCK "PADRE REDSTONE"

CITY STAFF CERTIFICATE:
Approved by the Department of Community Development of the City of Commerce City,

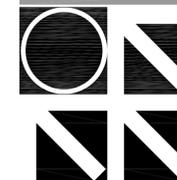
this ___ day of ___ AD. _____

Department of Community Development Signature _____

CITY COUNCIL CERTIFICATE:
Approved by the City Council of Commerce City,

this ___ day of ___ AD. _____

City Signature _____



intergroup
Architects

architecture
planning &
interiors
2000 West Littleton Blvd
Littleton, Colorado 80120
www.intergrouparchitects.com
303.738.8877 / 303.738.2294 fax

copyright 2010
These plans and written material are instruments of service and are the property of Intergroup, Inc. and may not be duplicated, disclosed or reproduced without the written consent of the Architect. Infringements will be prosecuted.

GENERAL NOTES

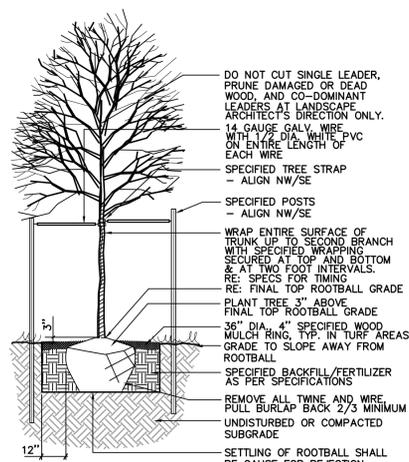
- REFER TO THE ABOVE PLANT LIST FOR MINIMUM PLANT SIZE REQUIREMENTS FOR THIS PROJECT. THE TURF AREAS, AS WELL AS SHRUB BEDS, SHALL BE ROTOTILLED WITH SPECIFIED CLASS 1 COMPOST AT A RATE OF 5 CUBIC YARDS PER 1,000 SQUARE FEET. THIS PREPARATION SHALL BE THOROUGHLY INCORPORATED INTO THE TOP 6" OF SOIL.
- ALL STREET TREES SPECIES SHALL BE PER COMMERCE CITY'S APPROVED PLANT LIST.
- PROVIDE 1" CRUSHED GRANITE ALONG FENCES AT A 3" MIN. DEPTH OVER POROUS FILTER FABRIC. PROVIDE 4" DEPTH CEDAR MULCH AT ALL SHRUB BEDS.
- ALL SHRUB BEDS ARE TO BE CONTAINED WITH STEEL EDGER WITH PROTECTIVE CAP. NOT REQUIRED AT CURB, WALK OR BUILDING. STEEL EDGER REQUIRED BETWEEN AREAS OF ROCK AND WOOD MULCH.
- ALL LANDSCAPED AREAS INCLUDING THE TREE LAWN WITHIN THE COLLECTOR AND LOCAL RIGHTS-OF-WAY SHALL BE MAINTAINED BY THE OWNER.
- ALL LANDSCAPE AREAS WITHIN SIGHT-DISTANCE-TRIANGLES MAY NOT CONTAIN PLANT MATERIAL THAT EXCEEDS 36" IN HEIGHT AT MATURITY ABOVE THE GUTTER FLOWLINE EXCEPT TREES WHICH MUST BE LIMBED TO 8 FT. AT ADEQUATE MATURITY.
- THE DEVELOPER SHALL ENSURE THAT THE LANDSCAPE PLAN IS CLOSELY COORDINATED WITH PLANS PREPARED BY OTHER CONSULTANTS SO THAT THE PROPOSED GRADING, STORM DRAINAGE OR OTHER CONSTRUCTION DOES NOT CONFLICT WITH OR PRECLUDE THE INSTALLATION AND MAINTENANCE OF LANDSCAPE ELEMENTS AS DESIGNATED ON THE LANDSCAPE PLAN.

- PRIOR TO THE COMMENCEMENT OF ANY LANDSCAPE CONSTRUCTION THE DEVELOPER OR AGENTS THEREOF ARE REQUIRED TO SCHEDULE AND ATTEND A PRE-CONSTRUCTION MEETING WITH A REPRESENTATIVE OF THE CITY OF COMMERCE CITY DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES.
- ALL LANDSCAPED AREAS WITHIN THE RIGHT-OF-WAY SHALL BE MAINTAINED IN ACCORDANCE WITH CURRENT AND FUTURE MAINTENANCE STANDARDS DEVELOPED BY THE CITY OF COMMERCE CITY DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES.
- TREES SHALL BE PLANTED A MINIMUM OF 10 FEET FROM INTERSECTIONS AND FIFTEEN FEET FROM LIGHT OR UTILITY POLES.
- ALL LANDSCAPE MAINTENANCE ON THE PROPERTY SHALL BE THE FULL RESPONSIBILITY OF THE PROPERTY OWNER AND SHALL MEET THE CITY'S REQUIREMENTS FOR MAINTENANCE STANDARDS INCLUDING TURF CARE, FERTILIZER, IRRIGATION, LITTER CONTROL, PRUNING, DISEASE AND INSECT CONTROL, AND SNOW AND ICE REMOVAL.

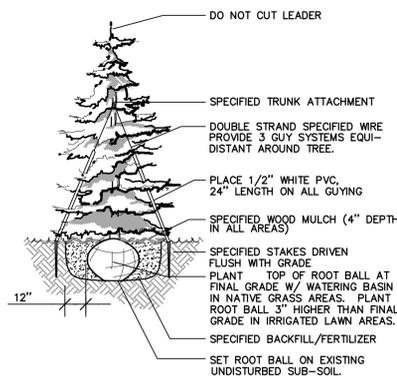
- 12. IRRIGATION NOTES:**
- A RAIN SENSOR(S) MUST BE INSTALLED IN ALL IRRIGATION SYSTEMS.
 - STRIP TYPE NOZZLES MUST BE USED TO IRRIGATE TURF/SOD WITHIN TREE LAWN AREAS.
 - A MAXIMUM OF 60 LBS. P.S.I. (AT HEAD) DESIGN PRESSURE IS RECOMMENDED.
 - ALL PLANTING BEDS FOR TREES, SHRUBS, PERENNIALS, GROUND COVERS, ETC., MUST BE DRIP-BUBBLERS/EMITTER IRRIGATION.
 - ROTARY SPRAY HEADS SHOULD BE USED WHEN PRACTICAL FOR ALL TURF AREAS.

PLANT LIST

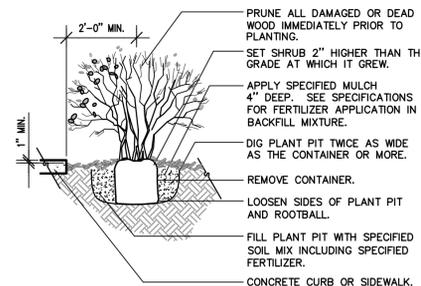
SYM.	QTY.	COMMON/ BOTANIC NAME	SIZE	COMMENTS
9 DECIDUOUS SHADE TREES				
SH	4	SHADEMASTER HONEYLOCUST GLEDITSIA TRIAUCNTHOS INERMIS 'SHADEMASTER'	2" CAL.	SPECIMEN QUALITY, FULL CROWN, B&B, STAKED
NRO	2	NORTHERN RED OAK QUERCUS RUBRA	2" CAL.	SPECIMEN QUALITY, FULL CROWN, B&B, STAKED
KC	3	KENTUCKY COFFEETREE GYMNOCLADUS DIOICA	2" CAL.	SPECIMEN QUALITY, FULL CROWN, B&B, STAKED
10 ORNAMENTAL TREES				
PFC	10	PRAIRIFIRE CRABAPPLE MALUS SP. 'PRAIRIFIRE'	1-1/2" CAL.	SPECIMEN QUALITY, FULL FORM, B&B, STAKED
23 EVERGREEN TREES				
AP	14	AUSTRIAN PINE PINUS NIGRA	6' HT.	SPECIMEN QUALITY, FULL FORM, B&B, GUYED
PP	9	PINON PINE PINUS CEMBROIDES EDULIS	6' HT.	SPECIMEN QUALITY, FULL FORM, B&B, GUYED
88 DECIDUOUS SHRUBS				
TLS	44	THREE-LEAF SUMAC RHUS TRILOBATA	5 GAL.	CONTAINER, 5 CANES MIN. 24"-30" HT., PLANT 4' O.C.
FL	38	FENCH LILAC SYRINGA VULGARIS SP.	5 GAL.	CONTAINER, 5 CANES MIN. 24"-30" HT., PLANT 4' O.C.
AMP	6	AMERICAN PLUM PRUNUS AMERICANA	5 GAL.	CONTAINER, 5 CANES MIN. 24"-30" HT., PLANT 4' O.C.



1 DECIDUOUS TREE PLANTING N.T.S.

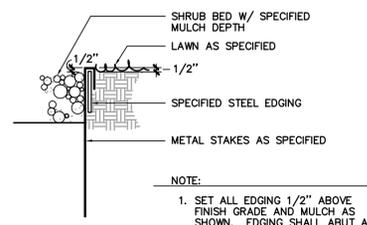


2 EVERGREEN TREE PLANTING N.T.S.



- NOTES:**
- ANY BROKEN OR CRUMBLING ROOTBALL WILL BE REJECTED. REMOVING THE CONTAINERS WILL NOT BE AN EXCUSE FOR DAMAGED ROOTBALLS.
 - HOLD GRADE 1" BELOW EDGE OF WALK OR CURB. THIS DETAIL SHALL ALSO APPLY TO PERENNIAL FLOWERS IN CONTAINER.
 - ALL JUNIPER PLANTS SHOULD BE PLANTED SO TOP OF ROOT MASS OCCURS AT FINISH GRADE OF MULCH LAYER.

3 SHRUB PLANTING DETAIL N.T.S.



- NOTE:**
- SET ALL EDGING 1/2" ABOVE FINISH GRADE AND MULCH AS SHOWN. EDGING SHALL ABUT ALL CONCRETE CURBS AND WALKS PERPENDICULAR AND FLUSH W/ GRADES OF CONCRETE. ALL JOINTS TO BE SECURELY STAKED.

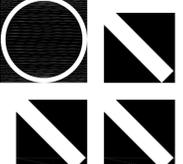
4 STEEL EDGER DETAIL N.T.S.

meuran
designgroup
site design
landscape architecture
site planning
700 colorado Blvd, suite 131
denver, colorado 80206
303.512.0549 fax 303.320.5322

SCHLUMBERGER - Zone Change
9251 E. 104th AVENUE
COMMERCE CITY, COLORADO

CITY STAFF CERTIFICATE: Approved by the Department of Community Development of the City of Commerce City, this ____ day of _____ AD, _____ Department of Community Development Signature CITY COUNCIL CERTIFICATE: Approved by the City Council of Commerce City, this ____ day of _____ AD, _____ City Signature	DATE
	05.28.10 DEV. PLAN SUBMITTAL 05.18.11 DEV. PLAN RESUBMITTAL

DP-4
LANDSCAPE
DETAILS



intergroup
Architects

■ architecture
■ planning &
■ interiors

2000 West Littleton Blvd
Littleton, Colorado 80120
www.intergrouparchitects.com
303 738 8877 / 303 738 2294 fax

copyright 2011
These plans and written material are instruments of service and are the property of Intergroup, Inc. and may not be duplicated, disclosed or reproduced without the written consent of the Architect. Infringements will be prosecuted.

SCHLUMBERGER - Zone Change

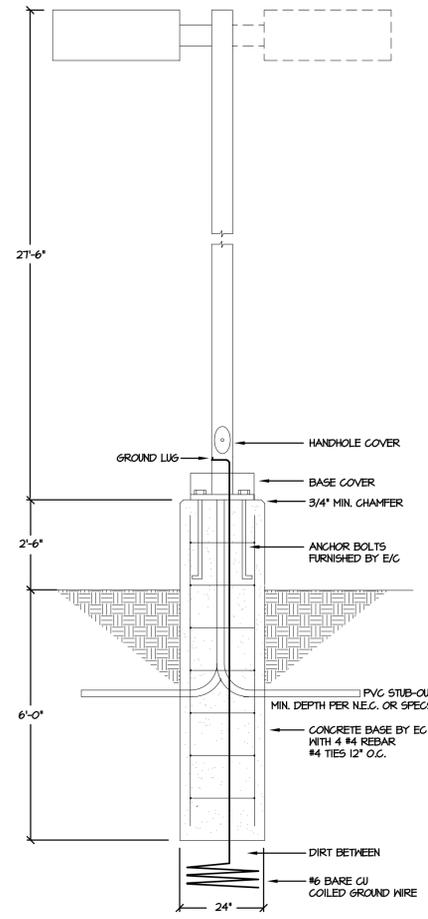
9251 E. 104th AVENUE
COMMERCE CITY, COLORADO

DATE	DESCRIPTION
05.28.10	DEV. PLAN SUBMITTAL
05.12.11	NEIGHBORHOOD MEETING
05.19.11	DEV. PLAN SUBMITTAL

CITY STAFF CERTIFICATE:
Approved by the Department of Community Development of the City of Commerce City,
this ___ day of ___ AD. _____
Department of Community Development Signature

CITY COUNCIL CERTIFICATE:
Approved by the City Council of Commerce City,
this ___ day of ___ AD. _____
City Signature

DP-5
PHOTOMETRIC PLAN



POLE BASE DETAIL
NOT TO SCALE

KIM LIGHTING

Type:
Job:
Catalog number:

Mfg. Fixture Electrical Model Finish Options (Optional task)
See page 2 See page 3 See page 4 See page 7

Select pole from Kim Pole Catalog. If pole is provided by others indicate O.D. for arm fitting.

Specifications

ET Model
150 to 400 watt
Mogul Base Lamps

Entablature Dimensions
See page 7 for standard Finish configurations and specifications.

ET
Entablature®
revision 9/19/08 • et.pdf

Approvals:

Date:
Page: 1 of 7

Housing: One-piece die-cast, low copper (0.6% Cu) aluminum alloy with integral cooling fins on the top surfaces above the optical chamber and electrical compartment. A solid barrier wall separates the optical and electrical compartments, with gasketed wire penetrations. A double-thick wall with gaskets is provided on the support arm mounting end. Inset sections on each end provide for attachment of optional entablatures, and cradle the mounting arm. All hardware is stainless steel or electro-zinc plated steel.

Lens Frame: One-piece die-cast, low copper (0.6% Cu) aluminum alloy with a 1" minimum thickness around the gasket flange for rigidity. Integral hinges with stainless steel pins provide no-tool mounting and removal from the housing. Two stainless steel thumb-latches are recessed into the front corners, concealed from normal view. Lens frame seals against the housing by a one-piece extruded silicone gasket with vulcanized end closure. Clear 1/8" thick tempered flat or convex glass lens is retained in the frame by eight clips with full silicone gasketing around the perimeter.

Reflector Module: Spectral Alzax® optical segments are rigidly mounted in a die-cast, low copper (0.6% Cu) aluminum alloy enclosure which attaches to the housing as a one-piece module. Reflector module is field-adjustable in 90° increments. All IFS and P&H sockets are porcelain mogul base 4KV with a molded silicone lamp stabilizer. All reflector modules are factory prewired with a quick-connect plug for the ballast module, with wires passing through a silicone gasket in the housing barrier wall. Four light distributions are available and interchangeable within the same housing size.

Electrical Module: All electrical components are UL and CSA recognized, mounted on a single plate and factory prewired with quick-disconnect plugs. Electrical module attached to housing with no-tool hinges and latches, accessible by opening the lens frame. All ballasts are high power factor with starting temperatures of -30°F for IFS and -20°F for P&H lamp modes.

Support Arm: One-piece extruded aluminum with internal bolt guides and a recessed step to match the housing. Luminaire-to-pole attachment is by internal drain bolts, and includes a pole reinforcing plate with wire strain relief. For mounting to round poles, arm is circular cut for precise mating to the pole diameter.

Finish: Super TCC thermoseal polyester powder coat paint, 2.5 mil nominal thickness, applied over a titanium zirconium conversion coating. A.S.T.M. Z500 hour salt spray test endurance rating. Standard colors are Black, Dark Bronze, Light Gray, SeaSalt Gray, Platinum Silver, or White. Custom colors are available.

CAUTION: Fixture must be grounded in accordance with national, state and/or local electrical codes. Failure to do so may result in serious personal injury.

Listings and Ratings

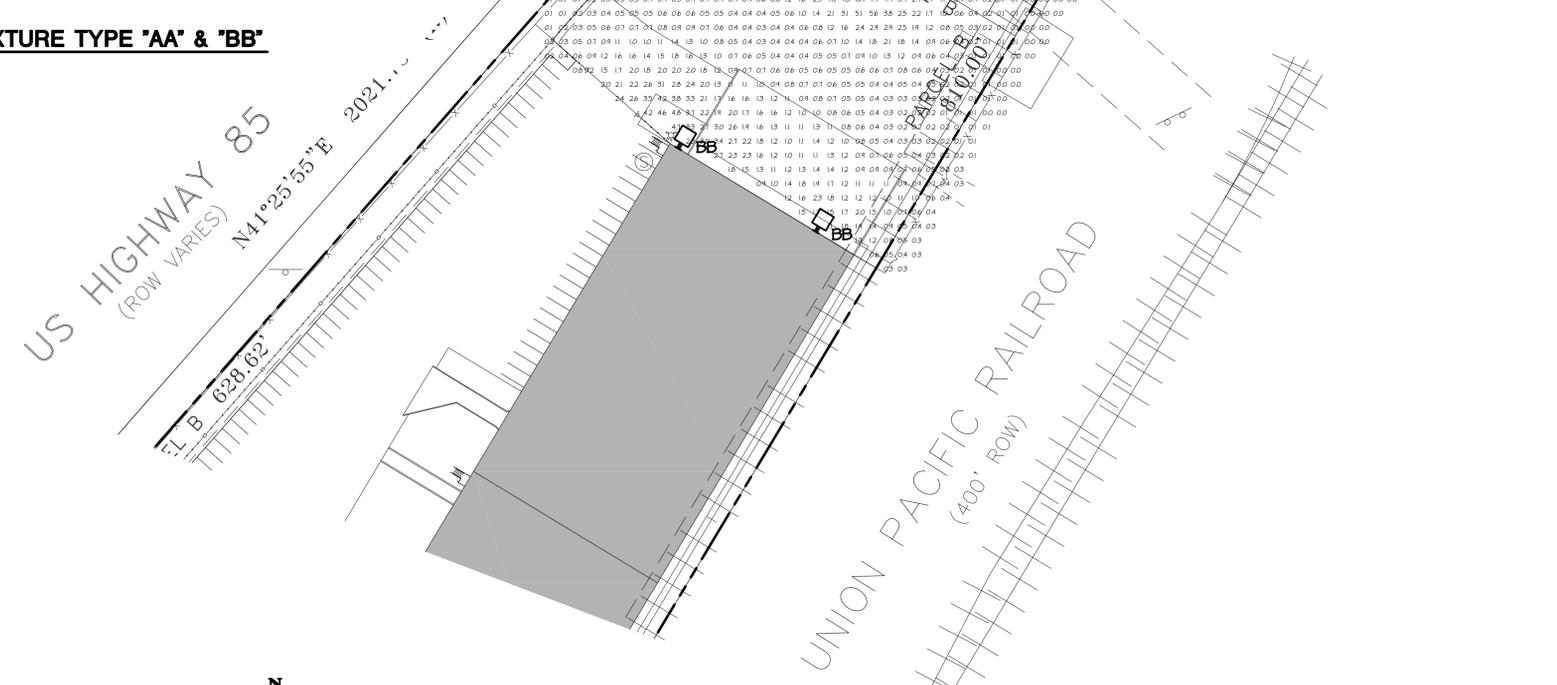
UL cUL 1598®	4FC Vibrator®	25C Ambient
IP66 Rated		CE

Full Cut Off with 0.5% lens Cut Off with convex glass lens

Suitable for wet locations
See CUL 1598®
Dark Sky Legislation Compliant

© 2008 KIM LIGHTING INC. • P.O. BOX 60080, CITY OF INDUSTRY, CA 91719-0080 • TEL: 626/988-8088 • FAX: 626/989-2895 5600000203

FIXTURE TYPE 'AA' & 'BB'



PHOTOMETRIC PLAN
SCALE: 1" = 60'-0"

LIGHTING FIXTURE SCHEDULE					
TYPE	MANUFACTURER	CATALOG NUMBER	DESCRIPTION	MOUNTING	LAMPS
AA	KIM LIGHTING	ET2/400P#1271	ENTABLATURE CUTOFF LUMINAIRE DIE CAST ALUM. REFLECTOR SYSTEM WITH SPECULAR PANELS DIE CAST ALUM. HOUSING AND LENS FRAME CLEAR FLAT GLASS	POLE AT 25'-0"	(2) 400MH
BB	KIM LIGHTING	ET4/400M#27HS	ENTABLATURE CUTOFF LUMINAIRE DIE CAST ALUM. REFLECTOR SYSTEM WITH SPECULAR PANELS DIE CAST ALUM. HOUSING AND LENS FRAME CLEAR FLAT GLASS LENS AND HOUSING SHIELD.	HALL	(1) 400MH



M.E.P. ENGINEERING
3565 S. Yosemite St.
Denver, CO 80237
info@mep-eng.com

(W) 303.936.1633
(F) 303.934.3299
www.mep-eng.com

MEP PROJECT# 10184

intergroup

Architects

May 28, 2010

Ms. Jenny Axmacher, City Planner
Commerce City – Community Development
7887 East 60th Avenue
Commerce City, Colorado 80022

Re: **Letter of Intent**
Schlumberger
Zoning Amendment for Outside Storage
9251 East 104th Avenue
Commerce City, Colorado

Dear Jenny,

On behalf of the applicant, Schlumberger, please find attached the Zoning Amendment Application to allow Outside Storage in I-3 Zoning (Heavy-Intensity Industrial District) with Restrictions for a 12.5 acre (approximate size) parcel and a 96,582 SF existing building located at 9251 East 104th Avenue, Commerce City.

This submittal includes all items as required by Commerce City and clarified during on-going discussions with staff. The intent of this Zoning Amendment Application is to follow the direction established during discussions/meetings with Commerce City staff.

We believe our project provides the following attributes to Commerce City:

- Provides an attractive, well planned project.
- Highway 85 landscape improvements.
- Provides increased tax base.
- Low maintenance – attractive screen fence at proposed outdoor storage.

The applicant believes this submittal meets all applicable regulations as outlined in the Commerce City Land Development Code and, most specifically, meets the approval criteria for a zone change located in Article III Section 21-3232. The following are those criteria with a description of how each of those standards is being met:

1. *Consistency of the proposed zone change with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city;*

The Commerce City Comprehensive Plan Future Land Use Map (amended February 2007) identifies the Schlumberger property as Industrial. The proposed zone change would permit Schlumberger to operate in its current state as well as to allow outside storage. We believe we are within the intent of the Comprehensive Plan as amended on February 2007.

2. *Compatibility of the proposed zone change with surrounding land uses and the natural environment;*

Schlumberger is an existing business that has operated at this location and the adjacent site to the east for many years and has established itself as an asset (aesthetically and economically) to the surrounding community. Schlumberger will operate in much the same manner as it has in the past with the addition of screened outside storage to the north of the existing building which, pursuant to the plan as proposed, will enhance the aesthetics of the Highway 85 corridor, providing a landscaped and architecturally pleasing buffer to those heavy industrial uses currently existing to the east of the Schlumberger site.

3. *The impact of the proposed zone change on providing efficient and adequate provision of public services including but not limited to water, sewerage, streets, and drainage;*

It is anticipated that the existing infrastructure and services are sufficient to serve both existing and future uses.

4. *The impact of the proposed zone change on efficient and adequate provision of public uses including but not limited to parks, school, and open space;*

We believe the proposed request for outside storage would not generate a need for additional parks, school, or open space.

5. *Describing a community need for the zoning district in the proposed location, given need to provide or maintain a proper mix of uses both within the city and the immediate area of the proposed use;*

Schlumberger is an existing Industrial Use located in an area of Commerce City that is mainly comprised of Industrial Uses. Given its location, continued use in its current state (with allowed outside storage) and the fact that it is a long-term, successful business, make it very reasonable to suggest that allowing this zoning amendment for this property is in the best interest of the Commerce City community.

As evidenced by its current structure, landscaping and maintenance of facilities, Schlumberger takes great pride in the appearance of its site. It is Schlumberger's belief that the plan as proposed will provide an aesthetically pleasing transition to the industrially zoned properties lying east of Highway 85.

6. *Describe the area in 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.*

As previously stated, Schlumberger has been an integral part of the community for many years. The goal of this amendment is to make full and efficient use of the property in a manner compatible to the City's plan for the immediately surrounding area. It is our belief that the plan, as proposed, not only conforms to the Commerce City Land Development Code, but that it exemplifies the City's desire to have an architecturally pleasing transition and use that is in step with the City's Comprehensive Plan.

Lastly, in addition to this Letter of Intent, you will find the following information enclosed pursuant to the requirements as outlined by Commerce City and regular discussions with staff:

- Land Use Application (previously submitted on April 30th)
- Application Fees (previously paid on April 30th)
- Copy of General Warranty Deed with Legal Description
- Development Plan
- Certified Boundary Survey
- Materials Board
- Operations Narrative Letter

We look forward to working with you on this project. Please call if we can answer any further questions.

Cordially,



Tony Casey, Assoc. AIA
Principal

xc: Gil Martinez / Schlumberger
Joel A. Mayo / Baker Hostetler

Schlumberger Commerce City Facility

Outdoor Storage Request – Operations Narrative

1. *Use and Scope of Project*

Schlumberger is making a formal request to Commerce City for permission to allow outdoor storage at our facility at 9251 E. 104th Ave. The intent of our request is to enable personnel to move steel racks, equipment and storage containers from inside the facility to our currently unused property to the north. In addition, our proposal will allow for additional vehicular parking (which was previously lost to condemnation) and the storage of our logging units on site, as opposed to our current system which requires off-site storage and daily transportation of the units to and from our facility. All of the equipment and vehicles stored at the facility are required for our continued ability to service drilling operations throughout Colorado and neighboring states. The additional storage will enable us to operate in a more efficient manner by allowing equipment needed on a daily basis to be stored at the facility.

The steel racks mentioned above are commercially available, cantilever type racks which will hold our equipment while awaiting repair or transport. The racks as depicted on the plan will be approximately forty-three inches (43"). Should further racks be required, the majority will also be 43" in height but in no event are they anticipated to exceed six feet in height. All such racks will hold tubular equipment/tools generally no greater than 9" in diameter. The storage containers mentioned above are single-unit, shipping type containers. All such storage containers are well maintained, no more than 8' in height and will never be stacked. Furthermore, pursuant to our plan, it is anticipated that there would typically be no more than two storage containers on site at any one time. The aforementioned logging units are white, fully enclosed trailers which will be parked in the outdoor storage area while awaiting the next job. The logging units are 8' in height and are pulled by a one ton pickup truck. As with the storage containers, it is anticipated that there would typically be no more than 4 logging unit trailers on site at any one time.

2. *General Site Layout and Circulation*

Per the plans that have been provided, all additional vehicular parking spaces and a majority of the racks, storage containers and logging unit trailers that are to be stored in the designated outdoor storage area will be neatly located against the perimeter screened fencing. Specifically, the logging unit trailers will be positioned so that they may be easily hooked up to a truck and taken off-site to job locations. This proposed layout will provide for maximum safety and efficiency in connection with our current operations within the outdoor storage area which includes the passage of trucks with flatbed trailers for loading and unloading operations.

3. *Anticipated Number of Employees*

In regards to personnel, we do not anticipate that the approval for outdoor storage will result in an increase in the current number of employees at our facility. The current personnel providing services at our facilities (which, as with any other industry, increase and/or decrease in relation to demand for our

services) will handle any additional tasks or duties which may arise in connection with the outdoor storage area.

4. *Hours of Operation*

Schlumberger does not anticipate any change in its normal hours of operation as the result of the addition of outdoor storage at the facility.

5. *Anticipated Number of Vehicles and/or Truck Deliveries / Traffic*

Schlumberger does not anticipate any increase in the number of vehicles, truck deliveries or traffic as the result of the addition of outdoor storage at the facility. Notwithstanding the same and quite to the contrary, with the addition of outdoor storage we believe that overall traffic in and out of the facility may actually decrease as the result of having logging units available on-site, alleviating that traffic currently required in connection with the delivery and removal of logging units to and from the facility from off-premises storage sites. On average we currently experience five to ten deliveries a day, though that can change based on the level of activity out in the field.

6. *Buffering for Neighboring Land Uses*

In compliance with Commerce City requirements, we will be installing a simulated stone fence around those portions of the storage area and additional parking area that are visible from Highway 85. The height of the fence as well as proposed materials are included with our submittal. In addition and further in compliance with the Land Use Code, we will provide, install and maintain appropriate landscaping between the new fence and Highway 85. It is Schlumberger's belief that the proposed fencing and landscaping will enhance the aesthetics of the Highway 85 corridor, providing a landscaped and architecturally pleasing buffer to those heavy industrial uses currently existing to the east of the Schlumberger site.

7. *Other Specific Operating Characteristics*

Schlumberger is an existing business that has operated at this location and the adjacent site to the east for many years and has established itself as an asset (aesthetically and economically) to the surrounding community. Schlumberger will operate in much the same manner as it has in the past with the addition of screened outdoor storage to the north of the existing building which, pursuant to our proposed plan for fencing and landscaping, will enhance the aesthetics of the Highway 85 corridor and provide a pleasing transition to the industrially zoned sites currently existing to the east of the Schlumberger facility. Plainly and simply, the goal of this proposed amendment is to make full and efficient use of the property in a manner compatible with the City's plan for the immediately surrounding area.

Please do not hesitate to contact us should you have any questions regarding any of the equipment we intend to store. We can be reached at (303)-439-5500. Please ask for Rod Middleton.

103424455.4

7/19/11

YOU ARE INVITED TO A NEIGHBORHOOD MEETING

TO DISCUSS: Proposed amendment of current zoning to allow for outdoor storage at the Pathfinder facility located at 9251 E. 104th Avenue, Commerce City, Colorado

TIME: 7 p.m. to 8:30 p.m.

DATE: May 12th, 2011

PLACE: Pathfinder, a Schlumberger Company
9251 E. 104th Avenue,
Commerce City, Colorado

Located at the NE corner of Highway 85 and E. 104th Ave.

Please join representatives of Pathfinder as we present plans for proposed changes and improvements to our facility and address questions you, our neighbors, may have in connection with our plans for outdoor storage at the site, including landscaping and architectural wall treatments along the Highway 85 corridor.

Light refreshments will be served.

HOSTED BY: Pathfinder, a Schlumberger Company

CONTACTS: Louise Higgs (303) 439-5505

Rod Middleton (303) 439-5503

Jim Peach (303) 439-5505

CITY STAFF: Jenny Axmacher (303) 289-3716
City Planner
City of Commerce City

Should you have questions, need special accommodations or require further information, please feel free to contact one of the above individuals for assistance.



A Schlumberger Company
9251 E 104th Avenue
Commerce City, Colorado 80640

Tel 303-439-5500
Fax 303-439-5688

To our Neighbors:

Welcome and thank you for coming. We very much appreciate the opportunity to present to you Pathfinder's proposed plans for future improvements to our facility. Pathfinder, a Schlumberger company, has made formal request of Commerce City for permission to allow outdoor storage at our facility. The intent of our request is to enable the placement of light equipment upon the currently unimproved portion of our property lying to the north of our buildings and immediately east of Highway 85. While such use is certainly in keeping with the industrial nature and zoning of properties east of Highway 85, we at Pathfinder wish to provide to our community, in conjunction with this proposed use, a landscaped and architecturally pleasing buffer and transition from those heavy industrial uses currently existing to the east of the Pathfinder facility.

In order to accomplish this, we have proposed a simulated stone fence around those portions of the storage area that are visible from Highway 85 looking east. In addition and in order to create and maintain a natural and living corridor, we will install and maintain trees, shrubs and grasses between and along the entire length of the new fence and Highway 85. It is not anticipated that our outdoor storage as proposed will increase traffic to our facility or result in higher levels of noise or dust. In fact, much to the contrary, we believe these improvements will:

1. Reduce overall traffic as the result of having logging units available on-site, alleviating that traffic currently required in connection with the delivery and removal of logging units to and from the facility from off-premises storage sites;
2. Reduce any dust from the area as a result of paving to be installed over the northern portion of our property;
3. Reduce noise via the fencing (which provides a 95% sound reduction over chain link) and the buffering properties of the landscaping; and
4. Provide a pleasing, living view when looking eastward from Highway 85.

Pathfinder, is proud not only to be a part of Commerce City, but our local community and neighborhood. Over the past few years, we have strived to make our facility and property a shining example of not only how industrial properties should be run, but what they should look like and, specifically, how their appearance should be developed and maintained to provide a professional and aesthetically pleasing appearance. Our future plans as proposed will be in keeping with those same principles. Plainly and simply, the goal of this proposed amendment is to make full and efficient use of the property in a manner compatible to the City's plan for the immediately surrounding area, while at the same time providing an aesthetically pleasing and well maintained corridor to our community and for our neighborhood.



Council Communication

City Council Meeting: 29 Aug 2011

Prepared: 23 Aug 2011

Number of Attachments: One

Subject: Resolution Authorizing Carry Forward of 2011 PAB Allocation

Presenter: Roger Tinklenberg

Recommended City Council Action:

Staff recommends approval of Resolution No. 2011-50.

Summary Statement:

Each year Commerce City receives an allocation from the state of their bond volume cap for private activity bonds (PAB). The options for the allocation are to use it by issuing bonds, assigning the bonds to another local government or to another issuing authority such as the Colorado Housing Finance Authority (CHFA), relinquishing the allocation to the statewide balance or to carryforward the allocation for up to three years.

The primary use of the bonds has been for housing purposes. In 2010 Commerce City assigned its allocation to CHFA for that purpose. This year CHFA said they can't use additional PAB allocation. Therefore, since we do not have a project ready to go and CHFA can't accept more allocation, our choices are to turn the allocation back in to the statewide balance or to carryforward the allocation.

Because of the proposed redevelopment of the dog track property and the newly completed purchase of the Conter Estates single-family property by the Housing Authority, staff recommends that Council authorizes the carryforward of the 2011 allocation.

Next Steps: Staff will submit the appropriate documents to the state and the IRS.

Expenditure Required: None

Source of Funds: N.A.

Policy Issue: N.A.

Alternative: Relinquish the allocation to the statewide balance.

Background Information:

Private activity bonds are issued tax-exempt for qualified purposes. Qualified purposes include single-family housing, multi-family housing, student loans, industrial development, redevelopment and qualified facility bonds (i.e. airports, mass transit facilities and wastewater treatment plants). PABs typically are used for housing purposes due to the difficulty in using them for other purposes.

RESOLUTION 2011-50

A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, TO ISSUE REDEVELOPMENT BONDS IN 2012 AND TO CARRY FORWARD THE 2011 ASSIGNED ALLOCATION IN THE AMOUNT OF \$2,024,925 AND AUTHORIZING ALL ACTIONS NECESSARY THERETO

WHEREAS, the City of Commerce City, Colorado (the “City”), is a legally and regularly created, established, organized and existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado and a Home Rule Charter of the City (the “Charter”); and

WHEREAS, the City is authorized by its Charter, the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the “Act”), and the Colorado Supplemental Public Securities Act, Article 57, Title 11, Section 201, et seq., Colorado Revised Statutes, as amended (the “Supplemental Act”), to finance one or more projects (which includes any land, building or other improvement and real and personal properties) to the end that the City may be able to promote trade or other economic activity; and

WHEREAS, pursuant to the Private Activity Bond Ceiling Act, constituting Title 24, Article 32, Part 17, Colorado Revised Statutes (the “Allocation Act”), the City has received a direct allocation of the State of Colorado’s Private Activity Bond Ceiling (the “2011 Allocation”) in the amount of \$2,024,925; and

WHEREAS, the City has identified an intended qualified project to be known as the historic city redevelopment project; and

WHEREAS, the issuance of revenue bonds for such purposes constitutes a project under the Act; and

WHEREAS, the 2011 Allocation is not adequate to fund the intended project; and

WHEREAS, additional time to perfect the intended project is desired; and

WHEREAS, this Resolution is being adopted to satisfy the requirements of the City with respect to establishing its intent to issue, or to cause to be issued, revenue bonds and with respect to establishing a carryforward purpose for the City’s private activity bond allocation (the “Allocation”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO as follows:

Section 1. That in order to benefit the residents of the City, the City hereby declares its intent to issue its revenue bonds (including bonds to finance redevelopment of blighted areas or any other projects which have a “carryforward purpose” as defined by Section 24-32-1703(4), Colorado Revised Statutes, as amended) in one or more series of (the “Bonds”) in an aggregate principal amount not to exceed \$15,000,000.

Section 2. The City Council hereby finds, determines, recites and declares that the Bonds shall not constitute the debt, multiple fiscal year obligation or indebtedness of the City, the State or any political subdivision of the State within the meaning of any provision or limitation of the State Constitution or statutes and shall not constitute nor give rise to a pecuniary liability of the City or a charge against the City's general credit or taxing powers, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the City in such person's individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 3. That the City Council hereby finds, determines, recites and declares that the issuance of the Bonds in connection with financing such redevelopment will promote the public purposes set forth in the Act.

Section 4. That the City Council hereby finds, determines, recites and declares the City's intent that this Resolution constitutes an official indication of the present intention of the City to issue, or to cause to be issued, the Bonds as herein provided.

Section 5. That the officers of the City are authorized and shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution with such technical variations, additions, or deletions therein as the City Attorney may deem necessary or appropriate and not inconsistent with the approval thereof by this Resolution and to take such actions as contemplated by the Internal Revenue Code of 1986, as amended (the "Code") and the Allocation Act that may be necessary to manage, preserve, carryforward, delegate and/or assign the 2011 Allocation pursuant to the Code and the Allocation Act.

Section 6. That if any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. All actions not inconsistent with the provision of this Resolution heretofore taken by the Council and the officers of the City directed toward the assignment of the Assigned Allocation and the authorization of the Assignment hereby are ratified, approved, and confirmed.

Section 8. Nothing contained in this Resolution shall be construed as requiring the City to issue the Bonds and the decision to issue the Bonds shall be in the complete discretion of the City Council of the City.

RESOLVED AND PASSED this 29th day of August, 2011.

CITY OF COMMERCE CITY, COLORADO

BY: _____
Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



Council Communication

City Council Meeting: 29 Aug 2011

Prepared: 11 Aug 2011

Number of Attachments: None

Subject: 2012 Budget Presentation

Presenter: Roger Tinklenberg and Department Staff

Recommended City Council Action:

No formal action is required at this time, this is for information.

Summary Statement:

The preliminary total for the recommended 2012 budget is total expenditures of \$51,307,477 and \$47,855,235 in estimated income leaving \$3,452,242 to be covered by various fund balances.

These numbers are still preliminary and we expect them to change as more information comes available regarding assessed values for property tax revenue, state revenue estimates, insurance premiums, etc.

Community Development, Finance & Human Resources will make presentations, and there will be a discussion on refuse and recycling. The City Council Legislative draft budget will be provided for review in preparation of discussion at the September 12th budget retreat. City Council will have the opportunity to provide feedback regarding what additional information should be presented at the budget retreat.

- On September 12, the Council's budget retreat will occur from 3:00 to 9:00 P.M. There will be a final discussion on CIPP projects, additional discussion on refuse and recycling and the stormwater utility, and a discussion regarding the City Council Legislative Budget.
- October 17, Council and GID Board will each open their respective public hearings on the 2012 budget.
- October 24, Council and GID Board will each close their public hearing and act on their budget.

Next Steps: Council direction regarding the 2012 budget.

Expenditure Required: None

Source of Funds: N/A

Policy Issue: Council has the authority and duty to set the annual budget.

Alternative: None

Background Information:

This is the fourth of four budget presentations prior to the City Council budget retreat planned for September 12, 2011.



Council Communication

City Council Meeting: 29 Aug 2011

Prepared:

Number of Attachments: None

Subject: 2012 Budget

Presenter: Roger Tinklenberg

Recommended City Council Action:

This is for information, no decision is required at this meeting.

Summary Statement:

The annual budget of the General Improvement District must be adopted in a manner similar to the City's budget. A majority of the GID's income is generated by the GID's property tax. A majority of the GID's expenditures are for debt service on the three bond issues that paid for the installation of the water and sewer infrastructure and the 104th Avenue widening and improvement project.

Revenues are estimated to be \$5,428,226 and expenditures are proposed to be \$5,428,226 for 2012. The expenditures are proposed based upon an assumed debt interest rate of 4% per year. In reality, due to the use of variable interest rate debt, the expenditures are anticipated to be less. There is always the risk that the interest rate could increase rapidly as it did in 2008 when it spiked up to 8% for one week. Although we do not anticipate such an increase in the near future, we do have to budget for the potential increased interest costs.

The GID Board of Directors will have the opportunity to discuss the GID budget in detail on September 12, 2011. The next steps are then for staff to publish notice regarding the proposed budget, the GID Board to open the public hearing on the budget on October 17, 2011 and for the Board to close the public hearing on October 24, 2011 and to then take action on the budget that evening.

The mill levy is recommended to remain at 27 mills.

Next Steps: Hold the public hearing on the 2012 budget;

Take action on approving the 2012 budget.

Expenditure Required: None

Source of Funds: N.A.

Policy Issue: The GID Board has the authority and responsibility to adopt the annual budget.

Alternative: None

Background Information:

The GID budget is proposed to increase by 2.3% over the 2011 budget of \$5,303,089 due to modest growth in the assessed valuation within the District.



Council Communication

City Council Meeting: 29 Aug 2011

Prepared: 24 Aug 2011

Number of Attachments: 4

Subject: Discussion and direction regarding temporary water service to Singh Temple.

Presenter: Tom Acre

Recommended City Council Action:

Staff seeks GID Board concurrence regarding next steps in response to South Adams County Water and Sanitation District (SACWSD) provision of temporary water service for 2 years to the Singh Temple in unincorporated Adams County.

Summary Statement:

The Singh Temple, located within Brighton's water/waste water service area and growth/annexation area, received permits and was allowed to build in unincorporated Adams County. Because Brighton is not able to provide water and waste water service to the Temple at this time, the Singh Temple has requested water service from South Adams County Water and Sanitation District (SACWSD).

Provision of water service by SACWSD requires use of Northern Infrastructure General Improvement District (GID) facilities. Use of GID facilities requires inclusion into the GID, annexation into Commerce City in accord with existing agreements, and inclusion into SACWSD. Commerce City and Brighton have agreements in place which do not allow annexation of the Temple property into Commerce City.

The SACWSD Board is willing to provide temporary service to the Temple providing Brighton, Commerce City and Adams County do not object. Brighton staff has indicated to Commerce City staff that in order to not oppose temporary service by SACWSD we should have an amended annexation agreement in place.

Representatives of Commerce City, Brighton and SACWSD have had discussions concerning how to provide the requested service and the amendment of our agreements regarding annexation.

Next Steps: 1. Staff will continue to work with Brighton regarding the potential to

amend our annexation agreement.

2. Staff will develop a letter, with conditions, to not oppose the temporary service once the annexation agreement amendment has been executed.

Expenditure Required: No expenditure is required.

Source of Funds: N/A

Policy Issue: The GID governing documents and agreements with SACWSD do not allow for GID facilities to be utilized to provide water and waste water service to properties not annexed into Commerce City or included in the GID.

Alternative:

Background Information:

See attached information.

Pertinent sections of the attached GID Agreement with SACWSD and the 120th Avenue Revenue Sharing Agreement with Brighton have been highlighted in the attached documents. The sections are:

- Section 5.(a-e) on page 3 in the GID Agreement with SACWSD, and
- Section 1.(c) on page 2, and Section 2.(c) on page 3 of the 120th Avenue Revenue Sharing Agreement with Brighton.

**AGREEMENT BETWEEN NORTHERN INFRASTRUCTURE
GENERAL IMPROVEMENT DISTRICT AND
SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT
AND ITS ENTERPRISE
FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION
AND MAINTENANCE OF WATER LINES, WASTEWATER LINES,
ACCESSORIES AND APPURTENANCES THERETO**

THIS AGREEMENT ("the Agreement") is made and entered into effective the 27th day of April, 1998 by and between the Northern Infrastructure General Improvement District ("GID"), 5291 East 60th Avenue, Commerce City, Colorado 80022, a general improvement district organized and existing under and by virtue of the laws of the State of Colorado, and South Adams County Water and Sanitation District, 6595 E. 70th Avenue, Commerce City, Colorado 80022, a special district organized and existing under the laws of the State of Colorado ("SACWSD"), also acting in an enterprise capacity pursuant to its Water and Sewer Enterprise ("SACWSD Enterprise").

RECITALS

- A. GID is a general improvement district organized and existing under and by virtue of the laws of the State of Colorado.
- B. SACWSD is a special district organized and existing under and by virtue of the laws of the State of Colorado to provide water and wastewater services, and provides such services by and through its Water and Sewer Enterprise under Article X, Section 20 of the Colorado Constitution, and § 37-45-101.5, et seq., Colorado Revised Statutes.
- C. The parties to this Agreement have determined that construction, installation and maintenance of water lines and wastewater lines, lift stations, pumping stations and associated facilities in that portion of the area known as the Northern Range Area of the City of Commerce City, Colorado, as such area is generally delineated on the map attached hereto as Exhibit "A" ("the Northern Range Area") are a prerequisite for proper development of the Northern Range Area.
- D. GID and SACWSD are empowered to enter into contracts and intergovernmental agreements with one another to provide for provision of public facilities and services (§§ 29-1-203, 31-25-611, 31-35-402, and 32-1-1001, Colorado Revised Statutes, and Article XIV, Section 18, Colorado Constitution).

- E. The GID and SACWSD share a common interest in facilitating, expediting and accomplishing the construction of public water and wastewater facilities for development of the Northern Range Area, and find and declare that their constituents and the public will derive benefits from construction of these public improvements.
- F. In order to provide for public water and wastewater facilities to help accomplish development of the Northern Range Area, GID and SACWSD have determined that an agreement between GID and SACWSD and SACWSD Enterprise is necessary and in the public interest.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Project. SACWSD Enterprise agrees to be responsible for the design, construction and installation of the improvements and facilities as described on the plans attached as Exhibit "B" ("Project"), and accordingly shall make all interpretations and decisions regarding the Project, including contracting for work required for completion of the Project, except that the GID and SACWSD Enterprise shall be listed as co-owners on the contract documents, and agree that they shall jointly approve the following in regards to the Project:
 - a. Location of the work to be performed pursuant to the Project.
 - b. Scope of the Project.
 - c. The time for commencement and completion of the Project.
 - d. Cost of the Project.
 - e. Construction documents.
 - f. Change orders.
2. Familiarity With Project. By executing this Agreement, SACWSD Enterprise agrees that it will perform or contract to perform all work required for completion of the Project in a reasonably timely manner, subject to the provisions of this Agreement.
3. Payment of Project Costs. GID shall be responsible for timely payment for all costs approved by SACWSD Enterprise and the GID regarding the Project, which shall include any approved change orders. Upon receiving an invoice approved by SACWSD

Enterprise and GID, GID shall pay such progress payments within thirty (30) days of receipt. The bond issued and indebtedness incurred by the GID to finance the Project shall not be considered a debt or obligation of SACWSD or SACWSD Enterprise.

4. Requirement for Finalization of Financing Documents. It is expressly agreed and understood that a condition precedent to commencement of any ground-breaking work on the Project is that the financing documents necessary for the Funding for the Project shall be finalized and approved, and monies available therefrom for the costs of the Project.
5. Consent Required for Service. GID and SACWSD agree that no land located within or without the boundaries of the GID shall receive a water supply or wastewater services from or through any facilities or capacity constructed as part of the Project, unless the landowner(s) is first approved by GID and SACWSD for such services. The landowner(s) must agree to be bound by:
 - a. The terms and conditions required by GID and SACWSD for such services, including, but not limited to, payment of rebate and recapture costs to the GID for construction and installation of the Project, and
 - b. The terms, provisions and requirements of the "Agreement Regarding Annexation and Rebate of Costs Expended for Water and Wastewater Main Extension Lines" dated January 10, 1996 by and between SACWSD and the City of Commerce City, a municipal corporation, incorporated herein by this reference, except that a specific rebate formula will be developed for the Project by SACWSD and the GID, and
 - c. The Rules and Regulations of SACWSD, as they presently exist or may be amended in the future, and
 - d. Declaration of Covenants and Restrictions between the landowner and United Power, Inc., a Colorado cooperative corporation, a copy of which is attached hereto as Exhibit "C" and incorporated herein by reference, which shall be recorded in the real estate records of the Clerk and Recorder of Adams County, Colorado, and
 - e. The Participation Agreement between South Adams County Water and Sanitation District, the Northern Infrastructure General Improvement District, and the City of Commerce City.

6. Priority for Purchase of Taps. Through the end of the year 2002, SACWSD on an annual basis shall give priority through June 30th of each year to lands currently within SACWSD as of the date of this Agreement, and any existing lands within the GID as of the date of this Agreement, with SACWSD (including GID) landowners having the first right to purchase:
- a. 75% of the water taps available each year based on the then-existing water supply of SACWSD Enterprise, and
 - b. 75% of the sewer taps available each year based on the then-existing wastewater treatment plant capacity of SACWSD Enterprise.

See, however, SACWSD's disclosures regarding limited water and sewer capacity in paragraph 9 below. This priority to be given for water and sewer taps shall not apply to new customers who dedicate surface water rights and who pay for wastewater treatment plant upgrades so as to enable SACWSD Enterprise to provide such new service without impacting landowners within the GID.

For the time period in which the GID still has outstanding indebtedness for the costs of the Project, all water and wastewater service capacity made available in the Northern Range Area due to construction and installation of the Project shall be reserved for land within the GID, except for those users approved by joint agreement between the GID and SACWSD as provided above in paragraph 5.

7. Project Representatives.
- a. The GID initially designates the following as Project Representative on behalf of GID:
 - Timothy J. Gagen, City Manager
 - City of Commerce City
 - 5291 E. 60th Avenue
 - Commerce City, CO 80022
 - b. SACWSD and SACWSD Enterprise initially designate the following as Project Representative on behalf of SACWSD and SACWSD Enterprise:

Larry L. Ford, Manager
South Adams County Water and Sanitation District
6595 E. 70th Avenue
P. O. Box 597
Commerce City, CO 80037-2646

8. Project Property.

- a. GID agrees to seek approval from the City of Commerce City so that SACWSD Enterprise may use for the Project any and all public right-of-way owned by the City of Commerce City, Colorado.
- b. SACWSD Enterprise shall be responsible, at the expense and cost of GID, for obtaining conveyance of necessary easements to GID for completion of the Project which are not available for use pursuant to paragraph 8.a. above. To the extent possible, the easements to be acquired at the cost of GID shall include the ability to use such easements for telecommunications, general utilities and facilities necessary for the supply of telephone, electric and gas service. The GID shall join SACWSD Enterprise as co-petitioner in any condemnation proceedings to the extent necessary. SACWSD and GID shall jointly approve and manage the use of these easements.
- c. At the time the Project is conveyed to SACWSD, as provided in paragraph 10 below, an interest in the easements for water and wastewater facilities shall be transferred to SACWSD, and all other interests in easements acquired pursuant to paragraph 8.b. shall be transferred to the City of Commerce City.

9. Diligent Pursuit of Water Supply and Wastewater Facilities.

SACWSD Enterprise agrees to diligently proceed and exercise its best reasonable efforts to obtain an adequate water supply and wastewater treatment capacity required for use by the landowners within the GID of the facilities and lines to be constructed and installed pursuant to the Project. Presently, SACWSD Enterprise has a limited amount of uncommitted water taps -- approximately 1700 taps. Additional water supplies and wastewater treatment capacity necessary to serve the properties located within the GID will be pursued by SACWSD Enterprise over time. While SACWSD Enterprise will use its best efforts, SACWSD cannot guarantee that such water supplies or wastewater treatment capacity will be secured according to any schedule that development is projected to occur within the

GID. (See SACWSD Disclosure document, incorporated herein by this reference.)

It is agreed and acknowledged that SACWSD Enterprise has allocated certain portions of system development fees, wastewater resource fees and similar purpose fees collected and/or to be collected by SACWSD Enterprise, to acquisition of water supplies, water facilities and wastewater treatment capacity; accordingly, SACWSD Enterprise agrees and commits to continue its policy of using such fees for the acquisition of water supplies, water facilities and wastewater facilities for overall improvements to the SACWSD Water and Wastewater System, which will assist with the provision of service to the GID, to the extent permitted under those certain Resolutions authorizing SACWSD Enterprise Revenue Bonds, Series 1990 and Series 1993.

10. Ownership of Project. Until all indebtedness incurred for construction and installation of water and wastewater facilities pursuant to the Project is paid and satisfied in full, the facilities constructed and installed pursuant to the Project shall remain the sole and separate property of GID. When the said indebtedness is paid and satisfied in full, ownership of the Project shall be transferred in an "as is" condition without warranty, express or implied, by GID to SACWSD, without payment of any transfer charges or any other fees or costs by SACWSD to GID.
11. Warranties. SACWSD Enterprise shall assure that customary warranties by the construction contractors shall be provided for in the construction documents, and include GID as an additional beneficiary thereof.
12. Operation and Maintenance of Project. Upon successful completion of the Project, SACWSD Enterprise shall be responsible at its sole cost for operation and maintenance of all facilities constructed and installed pursuant to the Project. Such operation and maintenance shall be consistent with, and subject to, the rules and regulations of SACWSD for operation and maintenance of all water and wastewater facilities owned by SACWSD, with SACWSD Enterprise entitled to impose fees and charges as set forth in paragraph 13 below.
13. SACWSD Fees and Charges. SACWSD Enterprise shall be entitled to impose any and all fees and charges for use of the facilities constructed pursuant to the Project, including, but not limited to, tap fees, fees for water and wastewater services, and surcharges, provided that such fees are

consistent with its adopted rules and regulations, as such rules and regulations presently exist or may be amended in the future. Prior to imposing any increase in tap fees, SACWSD Enterprise agrees to give thirty (30) days advance written notice to GID prior to the effective date thereof. SACWSD Enterprise shall retain the sole discretion to increase tap fees and to impose any and all fees and charges it deems necessary. Land included within the GID and included within SACWSD also shall be subject to the administrative mill levy imposed on all properties within SACWSD. The GID also shall cooperate with SACWSD in maintaining the status of SACWSD Enterprise.

14. SACWSD Bond Resolutions. This Agreement is expressly made subject to those certain Resolutions authorizing the SACWSD Enterprise Revenue Bonds, Series 1990 and Series 1993, and this Agreement shall be construed as authorizing SACWSD Enterprise to issue additional revenue bonds, general obligations bonds, or other forms of indebtedness, as may be necessary in the future.
15. Revenue of GID; Termination. GID initially plans to rely upon the following revenues (tax levies, specific ownership taxes, utility line extension rebates, water and sewer line extension rebates) to provide for the payment of its general obligation bond purchased by United Power, and the participation agreement amounts payable to SACWSD and the City of Commerce City. GID shall not impose additional fees and charges for use of the Project facilities without first giving SACWSD thirty (30) days advance written notice to SACWSD prior to the effective date thereof. GID shall retain the sole discretion to increase such fees and to impose any and all fees and charges it deems necessary. Once all indebtedness incurred for construction and installation of the water and wastewater facilities pursuant to the Project are paid in full, and ownership of the Project has been transferred to SACWSD under paragraph 10 above, GID and SACWSD jointly shall confer on whether the GID shall continue in existence.
16. Time of the Essence. Time is of the essence under this Agreement, and if any condition hereof is not fulfilled, tendered or performed by either of the parties hereto as provided in this Agreement, then the non-defaulting party shall have the right to an action for specific performance.
17. Notice of Default; Attorney Fees and Costs. In the event that either party defaults in the performance of any term or provision of this Agreement, the party claiming the breach shall give the other party notice of the claimed breach or

default, and request that the breach be corrected or cured within thirty (30) days. If the breach or default is not corrected or cured within the 30-day period, the party claiming breach can use whatever remedies available at law or in equity to address the circumstances at hand, including, but not by way of limitation, specific performance and/or damages. Any non-defaulting party shall be entitled to recover all damages, expenses and reasonable attorney fees incurred as a result of such default.

18. Notice. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered when personally delivered or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, and addressed to the address of the addressee shown above.
19. Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof. This Agreement and its terms may not be modified in any manner, except by an instrument in writing signed by both parties. This Agreement was jointly drafted by counsel for both parties, and therefore cannot be construed against one party.
20. Paragraph Headings. The paragraph headings are inserted only for convenient references and do not define, limit or prescribe the scope of this Agreement.
21. Severability and General Cooperation. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. Provided, however, in the event of such an invalid, illegal, or unenforceable provision, the parties to this Agreement shall negotiate in good faith to replace any such severed provision in order to fulfill the intent of this Agreement. The parties hereto agree to cooperate generally on matters not expressly addressed herein so as to facilitate the terms and intent of the Agreement.
22. Due Authorization. Each party to this Agreement has been duly authorized by all necessary action and this Agreement is the valid and enforceable obligation of each party hereto to the extent that the respective terms, provisions and conditions apply to the respective parties.

23. Agreement Binding. The provisions of this Agreement shall be binding upon the parties. No assignment of the rights or obligations of the parties hereunder shall be made without the written consent of the other party.
24. Non-Waiver of Governmental Immunity. Nothing contained in this Agreement shall constitute or be interpreted as a waiver or abnegation of the legislative, governmental or police power or immunities of GID or SACWSD, though the GID and SACWSD shall not use the foregoing powers or immunities as a defense to complying with the terms of this Agreement.
25. Relationship of Parties. Nothing contained herein shall be construed to create a joint venture or other form of partnership between the parties, nor is this Agreement to be construed as creating any rights in any third parties.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement effective the day and year first above written.

GID:

NORTHERN INFRASTRUCTURE GENERAL
IMPROVEMENT DISTRICT

By: David R.D. Busby
David R.D. Busby, President

ATTEST:

Judith H. Ridgeley
Judith H. Ridgeley, Secretary

SACWSD:

SOUTH ADAMS COUNTY WATER AND
SANITATION DISTRICT

By: Jean Klein
Jean Klein, President
Board of Directors

ATTEST:

Robert J. Aragon
Robert J. Aragon, Secretary

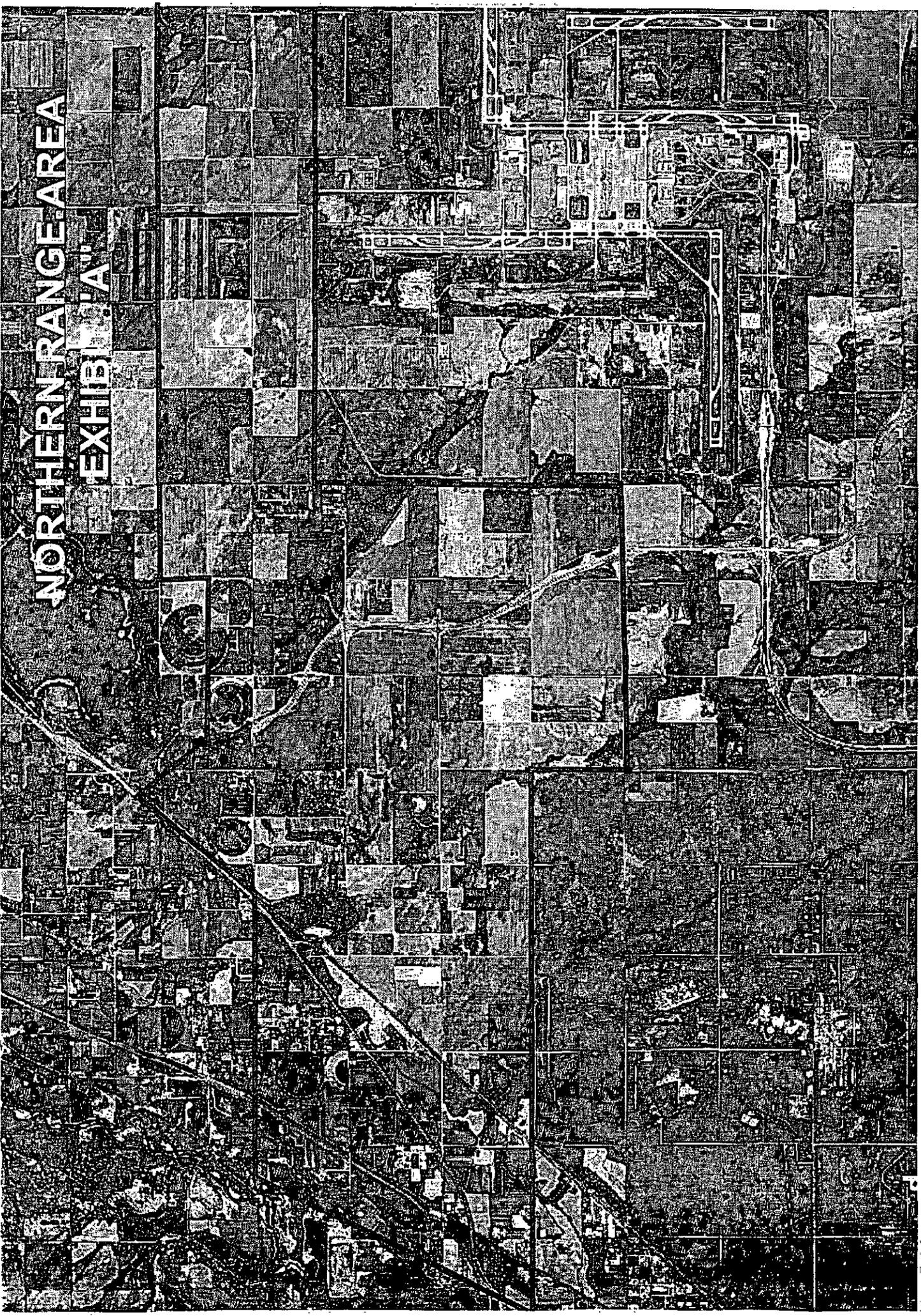
SACWSD WATER AND SEWER ENTERPRISE:

BY: Jean Klein
Jean Klein, President
Water and Sewer Enterprise

ATTEST:

Robert J. Aragon
Robert J. Aragon, Secretary
Water and Sewer Enterprise

**NORTHERN RANGE AREA
EXHIBIT "A"**



DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration of Covenants and Restrictions ("**Declaration**") is made as of this the _____ day of _____, 1998, by and between ~~HENDERSON RENTAL PROPERTIES, INC.~~, a Colorado corporation ("**Owner**") and UNITED POWER, INC., a Colorado cooperative corporation.

RECITALS:

A. The Owner is the owner of that certain real property located in Adams County, Colorado, more particularly described below, which is located within the Northern Infrastructure General Improvement District ("**District**"). At some time in the future, it is contemplated that the Owner will develop the properties owned by them and, in connection with the development, will need to obtain sewer service, electric service and other utilities. The Owner's property is also located in United Power, Inc's service district and United Power, Inc is by law the sole provider of electric power.

B. The Owner has voted/or consented to permit the District to issue bonds in the principal amount of \$11,500,000.00, denominated as the City of Commerce City Northern Infrastructure General Improvement District, Limited Tax General Bond Obligation Series 1998. The proceeds of the bond issue will be used for the purpose of developing certain sewer and water line improvements within the District.

C. The City of Commerce City has agreed to waive certain use taxes and to provide certain other funding for interest to accrue on the bonds provided that United Power, Inc. waive certain utility rebates. The waiver of utility rebates will place United Power, Inc. at a competitive disadvantage over other potential providers of electric power within the District.

D. The District proposes selling the bonds to Consumer Services Association, Inc. ("**CSA**"), a subsidiary of United Power, Inc. Waiving the rebates and purchasing the bonds will expose United Power, Inc. and Consumer Services, Inc to a risk of economic loss that they would be unwilling to undertake but for the fact that the Property is in United Power, Inc's service area and all homes built and businesses operated on the Property must purchase power from United Power, Inc. However, in the event of deregulation, United Power and Consumer Services may be exposed to risks that they will not be able to control until the Bonds are repaid. To protect them from these risks, the Owner agrees that United Power, Inc., Consumer Services Association, Inc. and their affiliates, shall have the right to provide electric power to the property until the Bonds have been repaid and shall be entitled to compete in providing other utility services to the Owners, on the terms and conditions provided for herein.

NOW, THEREFORE, in consideration of the mutual consideration recited above, and in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledges, the parties hereby covenant and agree as follows:

AGREEMENT

1. Definitions. Except as otherwise defined above, the following defined terms shall have the following meanings ascribed to them as used in this Declaration:

1.1 "**Bond(s)**" shall mean the City of Commerce City Northern Infrastructure General Improvement District Limited Tax General Obligation Bond Series 1998, and any and all other replacement and refunding bonds.

1.2 "**District**" shall mean the City of Commerce City, Northern Infrastructure General Improvement District and its successors and assigns.

1.3 "**Owner**" shall mean all of the Persons executing this Declaration designated as an owner below, and all of their successors and assigns, heirs and personal representatives.

1.4 "**Person(s)**" shall mean any corporation, partnership, trust, limited liability company, governmental body or agency, natural person or any other legal entity.

1.5 "**Property**" shall mean that certain real property situated within Adams County, Colorado, more particularly described in Schedule 1 attached hereto.

1.6 "**United Power**" shall mean United Power, Inc., a Colorado cooperative corporation, Consumer Services Association, Inc., a Colorado corporation, and any presently existing or hereafter created subsidiary or other affiliate of either, and their successors and assigns. All of the rights and privileges shall inure to the benefit of each such entity, severally.

1.7 "**Utility**" or "**Utilities**" shall mean any service or product sold to customers located on or about the Property which service or product is customarily transmitted through or across a physical line or through airwaves, including, without limitation, electric power, telephone, cable services, data communications and natural gas, but excluding consumable water and sanitary sewer.

2. Electric Service. Owner hereby covenants and agrees that so long as any amounts remain outstanding under the Bonds the Owner shall, notwithstanding any partial or complete deregulation of the electric service industry purchase all electric power to be used on or about the Property from United Power, unless United Power is unable to supply such electric power. Upon repayment of the Bonds, United Power agrees to execute and record a memorandum to terminate the restrictions and covenants contained in this Section 2.

3. Parity Service Provider. The Owner agrees and covenants that United Power shall have the non-exclusive right to provide to any customer who is located on or about the Property any Utility service, on a parity basis with all other persons who provide any Utility(ies) for use on or about the Property. As used herein, "parity basis" shall mean that United Power shall not be charged any fee or royalty, shall not be subjected to any cost or expense, or be made subject to any terms or conditions, which are any more burdensome than those applicable to the other providers of the same

Utility service for use or consumption on or about the Property. For example, if United Power (or one of its subsidiaries) elects to provide telephone services to customers located on the Property, the Owner shall not charge United Power an access fee as a condition to United Power's providing telephone service to any customer on or about the Property unless that same fee is charged to all telephone service providers who service the same customers.

4. Utility Lines. Owner hereby grants and conveys to United Power a non-exclusive right of access in and to any area of the Property now or hereafter subject to any utility easement, right-of-way, or other right of access evidenced in writing that has been or is within 90 years after the date hereof created for the benefit of any other Person for the purpose of providing any Utility service for consumption on or about the Property (hereafter referred to as a "Utility Agreement"). United Power's right of access (i) shall be situate in a location coextensive with the location described in or provided for in the Utility Agreement; and (ii) shall be on the same terms and subject to all of the terms contained in the Utility Agreement. For example, if Owner grants a ten-foot wide easement to ABC Telephone Co. which permits ABC to install and maintain underground telephone lines on the Property to service its customers, then United Power (and, as defined, any of its subsidiaries) shall also have an easement to install and maintain its own underground telephone lines in the same location.

5. Term. The provisions of this Declaration shall be, except as otherwise provided herein, perpetual. In the event that the term of this Declaration or any provisions contained herein violate the rule against perpetuities or are otherwise held to be invalid, the term hereof shall be reformed to 90 years from the date hereof or, if later, the maximum duration allowable by law.

6. Warranties. Owner does hereby warrant and represent to United Power that this Declaration, once executed, constitutes the valid and binding obligation of Owner in accordance with its terms and that Owner owns the Property.

7. Waiver of Rebates. Until the Bonds have been repaid in full, Owner does hereby assign to United Power and waive its right to receive any Utility extension line rebates which would otherwise be payable pursuant to United Power's rules and regulations upon the connection with United Power's electric facilities. United Power is hereby authorized by the Owner to pay, and shall pay, any such rebate first to the City of Commerce City until it has received an aggregate of \$2,000,000 and then to the District, until such time as the Bonds have been repaid in full. Upon the request of the District, United Power agrees to execute an agreement establishing a Declaration of Covenants and Restrictions, substantially on the same terms and conditions as provided in this Declaration, with any person who owns any real property subsequently annexed into the district or which utilizes the water and/or sewer facilities owned or financed by the District.

8. Miscellaneous. The Owner further covenants and agrees for the benefit of United Power the following:

8.1 Interpretation. This Declaration is the entire agreement between the Owner and United Power with respect to the provisions contained herein. Any prior verbal statements or representations are merged herein.

8.2 Severability. If any provision of this Declaration is determined to be unenforceable, the remaining provisions shall nonetheless remain enforceable to maximum extent permitted by law, each of which shall be severable.

8.3 Successors and Assigns. The terms of this Declaration shall be covenants running with the land and shall be enforceable against all future owners of all or any portions of the Property. These Declarations shall inure to the benefit of and be enforceable by United Power and its successors and assigns. This Declaration shall be binding upon the Owner and all of the Owner's successors, assigns, heirs and personal representatives.

8.4 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Colorado. In the event that any action is initiated for damages and/or specific performance, the prevailing parties shall be entitled to recover its costs and expenses, including attorneys' fees, incurred in connection therewith.

8.5 Counterparts. This Declaration may be executed in counterparts, each of which once taken together, shall constitute a single binding original.

IN WITNESS WHEREOF, the parties have executed this Declaration as of the day and year first written above.

"Owner"

a _____

By: _____

Name: _____

Title: _____

Notice Address: _____

707-571

7EArn,)1.1q
72M-1463: LNDa75-

8:8.8 / 5 I 1
.8633563 PAGE 558
WILL IAPFS01019
COUNT RECORDERM
404MS COUW #0061
Nar a 10 00 AN 89

881511

INTERGOVERNMENTAL AGREEMENT

This Agreement made and entered into this 7 day of _____, 1989, pursuant to Section 29-1-203, Colorado Revised Statutes, by and between the CITY OF BRIGHTON, a municipal corporation of the State of Colorado, and the CITY OF COMMERCE CITY, a municipal corporation of the State of Colorado.

WITNESSETH:

WHEREAS, the new international airport (the new airport) is proposed to be located east of the Rocky Mountain Arsenal in an area adjacent to the municipal growth areas of Brighton and Commerce City; and

WHEREAS, the construction of the new airport is expected to create an economic environment for urbanization and economic development opportunities; and

WHEREAS, Brighton and Commerce City wish to accommodate orderly growth and development in the area of the new airport so as to enhance the quality of life and to promote the economic well being of their respective communities; and

WHEREAS, the new airport is expected to result in development potential in the proximity of Brighton and Commerce City and provide opportunities for orderly annexation and sharing of revenues; and

WHEREAS, Brighton and Commerce City wish to cooperate to assure proper development in the area of the new airport.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Brighton and Commerce City hereby agree as follows:

1. Definitions. For the purpose of this intergovernmental agreement, the following terms shall be defined as follows:
 - a. Brighton Annexation Area shall mean that area marked as such on Exhibit "A" attached hereto and incorporated herein.
 - b. Commerce City Annexation Area shall mean that area marked as such on Exhibit "A" attached hereto and incorporated herein.

- c. Annexation Boundary shall mean the dividing line between the Brighton Annexation Area and the Commerce City Annexation Area. That line is described generally as follows: Extending east from the Platte River along 120th Avenue to Peoria Street; south along Peoria Street to 112th Avenue; east along 112th Avenue to 1-76; northeast along 1-76 to 120th Avenue; east along 120th Avenue to Chambers Road; north along the Chambers Road alignment extended to 1-76; northeast along 1-76 to the approximate alignment of 128th Avenue; east along the approximate alignment of 128th Avenue to Buckley Road; south along Buckley Road to the approximate alignment of 124th Avenue; east along the approximate alignment of 124th Avenue to Tower Road; south along Tower Road to 120th Avenue; east along the alignment of 120th Avenue to Picadilly Road; north along Picadilly Road to the approximate alignment of 136th Avenue; and east along the approximate alignment of 136th Avenue to the Adams-Washington County line except those areas otherwise designated as Commerce City Annexation Area and Brighton Annexation Area as shown on attached Exhibit A Detail.
- d. Revenue Sharing Area shall mean that area defined as follows: a distance of 300 feet north from the north right of way line and 300 feet south from the south right of way line of 120th Avenue, and including said right of way, from the Platte River on the west to Picadilly Road on the east; and a distance between the south right of way line of 120th Avenue to the north right of way line and 300 feet north thereof from Picadilly Road on the west to Watkins road on the east.

2. Annexation

- a. In order to provide for orderly annexations, pursuant to the statutes of the State of Colorado, within the Brighton and/or Commerce City annexation area defined in

- Paragraph 1 above, the parties agree that the City of Brighton may accept petitions for the annexation of land lying north of the Annexation Boundary defined in Paragraph 1, and the City of Commerce City may accept petitions for the annexation of land lying south of the Annexation Boundary defined in Paragraph 1.
- b. Each City agrees that Brighton is free to act upon any petition for annexation of lands lying north of the Annexation Boundary. Brighton shall not annex lands lying south of the Annexation Boundary.
- c. Each City agrees that Commerce City is free to act upon any petition for annexation of lands lying south of the Annexation Boundary. Commerce City shall not annex lands lying north of the Annexation Boundary.
- d. Notwithstanding the provisions of this Paragraph 2, Commerce City agrees that it shall not, without receipt of an annexation petition for each property to be annexed, annex residential lots which are developed as of the date of this Agreement in those residential subdivisions shown on attached Exhibit 'UP, and the provisions of this paragraph shall apply to such lots so long as the ownership of such lots is not changed from the ownership in effect on the date of this Agreement, or until January 1, 1995, whichever is sooner, and said provisions shall be automatically extended for increments of five (5) years for the life of this agreement unless within thirty (30) days prior to six (6) months before the termination of each incremental period, by written documentation from Commerce City to Brighton, Commerce City requests renegotiation of the terms of this Paragraph 2.d. In the event that renegotiation efforts are not successful in altering the terms of this

paragraph 2.d. then the restrictions referred to in this paragraph 2.d. against annexing the residential subdivisions shown on attached Exhibit "B" shall terminate at the end of the applicable incremental period. The residential subdivisions, lots, and property ownership to which the provisions of this Paragraph 2.d. shall apply are set forth in attached Exhibit n13". As used in this Agreement, "property ownership" shall mean only that ownership set forth in attached Exhibit "B", and shall not include heirs, devisees, successors or assigns of present owners named on attached Exhibit "B". Provided however, the provisions of this Paragraph 2.d. shall not apply to a restriction on annexation of an entire subdivision in which a majority of the owners of such residential subdivision petition *for* annexation in accordance with the provisions of state law.

3. Revenue Sharing

The parties understand that the implementation of this Agreement and the achievement of its purposes, including planning for and regulating the use of land and the provision of city services, facilities, rights-of-way, and other requirements within the Revenue Sharing Area, will require the expenditure of revenues by each party. In light of the foregoing, the parties agree that certain revenues will be shared between the parties subject to the conditions and formulas Set forth below, for use by the parties, including but not limited to, implementation of this Agreement and the provision of services within the Revenue Sharing Area.

a. Revenue Formula

- (1) Subject to the provisions of this Paragraph 3, all sales and use tax revenues collected by each party within the Revenue Sharing Area shall be distributed between the parties as follows:

the city in which the tax is collected shall retain one-third of the tax receipts from that type of tax and the remaining two-thirds of the tax receipts from that type of tax shall be distributed between the two cities in accordance with the following formula:

Brighton's percentage share of the combined revenue shall be obtained by dividing Brighton's rate for that tax by the sum of the Brighton and Commerce City rates for that tax, multiplied by one hundred; Commerce City's percentage share shall be one hundred percent (100%) less Brighton's share as previously calculated.

No division shall be made pursuant to this paragraph 3.a.(1) of any sales or use tax revenues pledged to the payment of any of a city's sales and use tax revenue bonds or other obligations outstanding as of the date of this Agreement until all deposits and credits have been made pursuant to the ordinance(s) authorizing the issuance of such bonds or other obligations, nor shall any division be made pursuant to this paragraph 3.a.(1) of any sales or use tax revenues pledged for the cost of improvements within the Revenue Sharing Area. However, while this Agreement is In effect, neither city will pledge to the payment of sales or use tax revenue bonds or other obligations issued to the pay the costs of constructing improvements outside the Revenue Sharing Area any sales or use tax revenue derived from the Revenue Sharing Area.

- (2) Subject to the provisions of this Paragraph 3, all property tax revenue collected for each party within the Revenue Sharing Area shall be distributed *between*

the parties in accordance with the following formula: Brighton's percentage share of the combined revenue shall be obtained 'by dividing Brighton's mill levy by the sum of the Brighton and Commerce City mill levies, multiplied by one hundred; Commerce City's percentage share of the combined revenue shall be one hundred percent (100%) less Brightpn's percentage share as previously calculated.

b. Realignment of 120th Avenue

It is understood and agreed by both parties that if 120th Avenue is realigned at any point within the Revenue Sharing Area described above, the Revenue Sharing Area shall move accordingly in relation to 120th Avenue as realigned.

c. Uses in Revenue Sharing Area

It is understood and agreed by both parties that Where a commercial or industrial use or related activity is partially but not wholly contained in the subject revenue sharing area, the entire use, business or activity shall be considered to fall within the Revenue Sharing Area and shall be subject to the revenue sharing formulas contained in Paragraph 3(a) above. For the purposes of this Agreement, "use" is understood to include primary structures, secondary structures, parking improvements, open space and other site improvements reasonably associated with the principal commercial and/or industrial economic use of the site affected by this Agreement.

d. Threshold for Initiation of Revenue Sharing

(1) The parties understand and agree that, in order to encourage development in the Revenue Sharing Area, it may be necessary and desirable to initiate

infrastructure improvements. The parties further understand and agree that such improvements would in all probability be financed through bonded indebtedness, creating the need for a reliable income stream from properties in the Revenue Sharing Area to amortize the debt.

Therefore, the parties agree as follows:

- (a) In the event neither City has incurred debt for infrastructure improvements within the Revenue Sharing Area: Revenue sharing provided for in this Agreement shall become effective for both cities after either City has generated \$100,000 in revenues in that portion of the Revenue Sharing Area within its jurisdiction.
- (b) In the event either City has incurred debt for infrastructure improvements in the Revenue Sharing Area: The amount of the annual debt service obligated for such improvements shall be deducted from the gross revenues provided for in this Agreement as set forth in paragraph 3.a. and generated within that portion of the Revenue Sharing Area which lies in such City's jurisdiction. If the resulting net amount is equal to or less than \$100,000, no revenues shall be shared. If the resulting net amount exceeds \$100,000, the net revenues shall be shared in accordance with the provisions of this Paragraph 3.
- (c) The provisions of Paragraph 3.d. (1) (b) above shall apply to debt issued within fifteen (15) years after the effective date of this Agreement. Thereafter, the provisions of said section shall not apply.

(d) Regardless of the date of issuance of debt as described in Paragraph 3.d.(1)(b), the provisions of said paragraph shall not apply beyond the 30th (thirtieth) year after the effective date of this Agreement.

e. Administration

- (1) The Finance Directors of both cities shall be responsible for determining what revenues are subject to sharing pursuant to this Agreement and at what intervals during the course of any calendar year such sharing shall take place. Such determination shall be made quarterly.
- (2) All tax revenues subject to sharing pursuant to this Agreement shall be distributed between the two cities no later than twenty (20) calendar days following the determination as set forth in paragraph 3.e.(1) above that such revenues are subject to sharing.
- (3) Each City shall make every effort to standardize with the other City, the procedures, ordinances and regulations applicable to the taxes to be shared pursuant to this Agreement.
- (4) Each party and its authorized agents may, upon thirty (30) days advance written notice to the other, audit the other's records of those taxes which are collected within the Revenue Sharing Area and which are being shared pursuant to this Agreement.
- (5) Neither City shall impair the rights under this paragraph 3 of the other City, without the other's consent, to share in the revenues as described in this paragraph 3.

4. Joint Planning

- a. Brighton and Commerce City agree to jointly prepare and to adopt a Comprehensive Plan as a guide for the development of land and the provision of public services within the Revenue Sharing Area.

Said plan shall be coordinated with the plans of other governmental entities affected by development in the Revenue Sharing Area, including Adams County, other municipalities, special districts, and agencies.

- b. The plan may be adopted as a whole or in stages, but it shall include provisions for the following:
- (1) Land uses in the subject area.
 - (2) The location of intersections, bridges, overpasses, curb cuts, access roads, and traffic control devices within the subject area; and the design, construction, maintenance and financing thereof.
 - (3) The location of facilities to provide water and sewer service to the subject area; and the design, construction, maintenance and financing thereof.
 - (4) A drainage master plan for the subject area, including the design, construction, maintenance and financing of drainage improvements and facilities.
 - (5) Landscaping and maintenance of rights of way and medians within the subject area.
 - (6) Police and fire service within the subject area.
 - (7) Design standards within the subject area.

5. General Provisions

- a. Parties to Exercise Good Faith. Brighton and Commerce City agree to devote their best efforts and to exercise good faith in implementing the provisions of this Agreement.

- b. Intent of Agreement. This Agreement is intended to describe rights and responsibilities only as between the named parties hereto. It is not intended to and shall not be deemed to confer rights to any persons or entities not named as parties hereto nor to require Brighton or Commerce City to annex any property or to provide any services to any land or development. This Agreement is not intended to limit in any way the powers or responsibilities of Adams County or of any other political subdivision of the State of Colorado not a party hereto. This Agreement is not intended to create a separate governmental entity as defined in Title 29, Article 1 of the Colorado Revised Statutes.
- c. Remedies for Default. Should any party fail to comply with the provisions of this Agreement, the other party, after providing written notification to the noncomplying party and upon the failure of said party to achieve compliance within ninety (90) days after said notice, may at its option either terminate this Agreement or maintain an action in a court of competent jurisdiction for specific performance, injunctive, or other appropriate relief but not for a remedy in the form of damages. In the event of such litigation, each party shall be responsible for its own costs, including attorney fees.
- d. Effective Date. This Agreement shall become effective on AAy /9 01
- e. Effect of Invalidity. If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction as to either party or to both parties, the parties hereto agree to renegotiate this Agreement.
- f. Amendment. This Agreement' can be amended in writing by the parties hereto.

g. Termination. This Agreement :shall be in full force and effect for a period of 30 years after the effective date unless the parties mutually agree in writing to terminate it sooner or unless termination is a remedy for default as set forth in paragraph 5(e) above. Thereafter, the Agreement shall automatically terminate unless both parties mutually agree in writing to extend tDia Agreement prior to the effective termination date.

IN WITNESS WHEREOF, the above parties hereto have caused this Agreement to be executed.



CITY OF BRIGHTON

By: Sam Gomez
Sam Gomez
Mayor

ATtkiTr ;

it Clerk

APPROVED AS TO FORM:
Leonard H. ...
City ttorney

CITY OF COMMERCE CITY

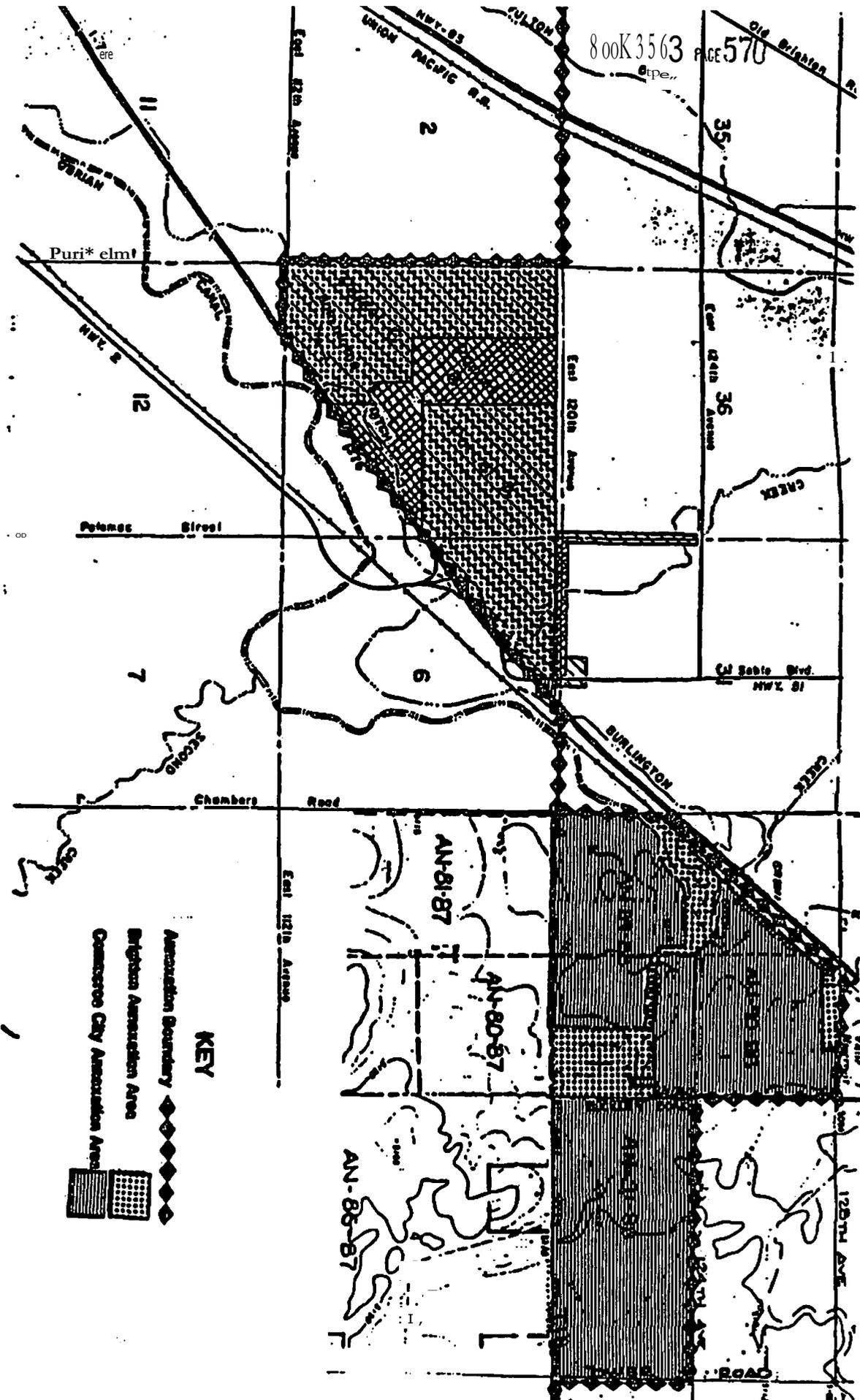
By: ...
id R. =usby
Mayer

ATTEST:
Bonnie ...
City Clerk (Deputy)



APPROVED AS TO FORM)

OtejRV4
City ttorney



KEY

- Association Boundary 
- Brighton Association Area 
- Oronoco City Association Area 

EXHIBIT A - DETAIL



Fwd: Temple Motion

Sunday, August 14, 2011 2:24 PM

From: "Rashpal" <rashpalrb@yahoo.com>

To: dhillon4343@yahoo.com

Sent from my iPhone

Begin forwarded message:

From: tejwant mangat <mangatts@yahoo.com>

Date: August 14, 2011 12:45:16 AM MDT

To: rashpalrb@yahoo.com

Subject: FW: Temple Motion

--- On Fri, 12/8/11, Jim Jones <jjones@sacwsd.org> wrote:

From: Jim Jones <jjones@sacwsd.org>

Subject: FW: Temple Motion

To: "mangatts@yahoo.com" <mangatts@yahoo.com>

Cc: "tbeaton@mwhw.com" <tbeaton@mwhw.com>, "Small Managers" <SmallManagers@sacwsd.local>, "Joseph B. Dischinger" <jdischinger@fwlaw.com>

Date: Friday, 12 August, 2011, 5:02 PM

Mangatt,

Here is the action that was taken by the District's Board:

The Board of Directors of the South Adams County Water and Sanitation District unanimously approved a motion to allow a temporary water service connection for the Singh Temple located at 20555 E. 120th Avenue, subject to Temple representatives ability to get letters, from the City of Brighton, the City of Commerce City and Adams County, approving South Adams' temporary water service to the subject property.

The temporary water service is only for a two year period and is intended to help the Temple with their current water quality problems. It is the intent of the District that during the two year period, Temple representatives will be able to work through their water and sewer service issues and determine an appropriate long-term solution for those needs. The current alternatives appear to be permanent service from the District, permanent service from the City of Brighton, or continued use of the Temple's existing well and septic systems.

Subject to the receipt of the aforementioned letters, prior to implementation of the temporary water services, the Temple will need to agree to a Temporary

Service Agreement that will spell out the terms of the temporary water service including the payment of appropriate rates, fees and cost reimbursement requirements as well as service line installation requirements and operating requirements as determined by District management and staff.

The temporary service agreement will also identify all of the District's requirements that will have to be satisfied for the Temple to receive permanent water and sewer services from the District. As a condition of the Temporary Service Agreement, if at the end of the two year period for temporary water service, the Temple is still seeking permanent service from the District but is unable to meet all of the requirements identified in the Temporary Service Agreement, the water services to the Temple will be disconnected, and Temple representatives will have to agree that they will not pursue legal action against the District. At that point it will be up to the sole discretion and responsibility of the Temple to identify permanent water and sewer service solutions for the Temple which will be independent from the District's systems.

Jim Jones
District Manager
720-206-0511



Council Communication

City Council Meeting: 25 Oct 2010

Prepared: 17 Oct 2010

Number of Attachments: 6

Subject: Update Briefing on Colorado Singh Temple, 20555 E 120th Ave - Unincorporated Adams County

Presenter: Jerry Flannery

Recommended City Council Action:

No formal action by City Council is requested or required as this is in information item only.

Summary Statement:

- Representatives of the Singh Temple approached staff regarding allowing potable water service to the Temple under construction on east 120th Ave.
- The deep well drilled for the Temple has water quality issues which will require Reverse Osmosis treatment which is available and could be cost effective in this situation.
- The Temple is located outside of Commerce City's urban growth area and Annexation Area as defined in our 1989 IGA with the City of Brighton.
- Commerce City is unable to annex the property at this time because we do not have the required 1/6th contiguity.
- South Adams County Water and Sanitation District has indicated the Temple is outside of their service area.
- In order to receive potable water service SACWSD has informed the Temple representatives that they would also be required to connect to the waste water service.
- To receive waste water service, the Temple would be required to join the GID which requires annexation into Commerce City.

Next Steps: None are anticipated at this time

Expenditure Required: No expenditure is required

Source of Funds: Not Applicable

Policy Issue: Should Commerce City support annexation of property located outside of our urban growth and planning areas, and outside of the Commerce City Annexation Area as defined by the 1989 IGA between Commerce City and Brighton? Or should Commerce City allow SACWSD to provide water and waste water service without annexation which would be inconsistent with the agreements between SACWSD and Commerce City regarding water and waste water service within the GID.

Alternative: Staff is not recommending annexation or provision of water and waste water service at this time. The alternative is for the Temple to continue to develop and utilize their well system as it has been identified.

Background Information:

See attached memorandum, maps, letter from Brighton to the Temple, and 1989 IGA.



**City Council of Commerce City
*Urban Renewal Authority***

Council Chambers, 7887 E. 60th Ave.

Monday, August 29, 2011

Following GID Meeting

(Times indicated next to agenda items are an approximate start time only)

Call to Order/Roll Call - 10:45

Executive Session

10:50 Executive session pursuant to C.R.S. 24-6-402(4)(e)
for negotiation and discussion concerning site
selection for educational and recreational purposes.

Adjourn - 11:05