



STAFF REPORT

Planning Commission

CASE #CU-123-20

PC Date:	August 4, 2020	Case Planner:	Jenny Axmacher
CC Date:	September 21, 2020		
Location:	The Second Creek Interceptor extends from E. 81st Avenue and Tower Road to E. 120 th Avenue and Wheeling Street along Second Creek. The Sand Creek Interceptor is near E. 64th Avenue and York Street.		
Applicant:	Metro Wastewater Reclamation District (MWRD)	Owner:	Multiple- List attached in Exhibit A
Address:	6450 York Street, Denver, CO 80229	Address:	Multiple – List attached in Exhibit A

Case Summary

Request:	Metro Wastewater Reclamation District (MWRD) is requesting a conditional use permit for a 6.4-mile long wastewater pipeline project, along Second Creek, known as the Second Creek Interceptor and improvements to 0.8 miles of the existing Sand Creek Interceptor.
Project Description:	The Second Creek Interceptor (SD Interceptor) and Sand Creek Interceptor System (SCIS) Improvements were recommended by the Regional Master Plan, commissioned by MWRD in collaboration with the municipalities and special districts that MWRD serves, as the most feasible solution for adding the necessary conveyance capability to accommodate growth in the MWRD's northeastern service area. The MWRD's proposed 17.5-mile-long SD Interceptor extends from the City of Aurora north to Adams County, with approximately 6.4 miles located in the City. The SCIS improvements include the approximately 0.5-mile segment on the District's Robert W. Hite Treatment Facility (RWHTF) property, which was previously approved by the City under a separate CUP in 2010 (CU-37-93- 10), and the approximate 0.3-mile segment on the adjacent Suncor Energy USA Refinery property being submitted under this application.
Issues/Concerns:	Interceptor alignment, impacts to the surrounding area, and safety.
Key Approval Criteria:	LDC 21-3230; Site Suitability; Adverse Impacts; and Compliance with Comprehensive Plan
Staff Recommendation:	Approval with Conditions
Current Zone District:	Various – Exhibit A
Comp Plan Designation:	Various – Exhibit A

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

- ☒ Applicant's Narrative Summary and application materials
☐ Site Plan

- ☒ Vicinity Map
☒ Neighborhood Meeting Notes

Background Information

Location of Proposed Pipeline:

As described in the attached Exhibit A, the proposed route crosses approximately 41 properties with 19 different owners.

The proposed route, as illustrated in Exhibit B originates from Brighton moving into Commerce City by heading south of I-76 just south of approximately the alignment of East 117th Avenue and heads south along the western boundary of the City's Second Creek future park and open space area. The route then crosses E. 112th Avenue and continues south along Oakwood's future Reunion Village 8 development.

The route continues east along Second Creek, crossing Chambers Road. Then the interceptor traverses the floodplain to the north of the Second Creek Village Commercial Development. The route then crosses East 104th Avenue just to the west of Second Creek at approximately the alignment of Joplin Street. The Interceptor continues south, clipping the north east corner of the Stuart Middle School site and moving south on west side of Second Creek down to East 96th Avenue.

The interceptor crosses East 96th just to the east of the former Buckley Road alignment continuing south along the east side of City-owned Parcel K open space portion of the Buffalo Highlands Development. The route crosses East 88th Avenue and continues along Second Creek through the Nexus North and Nexus developments, crossing East 83rd/84th Avenue and Tower Road at approximately the alignment of East 82nd Avenue.

Another branch continues south from East 83rd/84th Avenue across East 81st Avenue, through US Airport parking in unincorporated Adams County and then into the City and County of Denver. The branch that heads East, across Tower Road, along Second Creek through the Allied Waste landfill site and then into the City and County of Denver.

Conditional Use Permit Requirement

A Conditional Use Permit (CUP), as defined by Section 21-3230 of the Land Development Code, is required for this project as a public utility installation pursuant the Land Use Table (Section 21-5200). A conditional use permit process allows for special consideration of certain specified uses that may or may not be compatible with an area, depending on the specifics of the particular project. If granted, a conditional use permit will lapse in 2 years if not commenced or if the use is abandoned or discontinued for 180 days or more.

A conditional use permit may be granted if:

(a) All of the following criteria are met:

(i) The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either

as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;

(ii) Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;

(iii) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;

(iv) The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;

(v) The applicant has provided adequate assurances of continuing maintenance; (vi) There is no evidence to suggest that the use violates any federal, state, or local requirements; and

(b) One of the following criteria is met:

(i) There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide and maintain a proper mix of uses both within the city and the immediate area of the proposed use; or

(ii) The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the city.

Conditions may be imposed pursuant to Sections 21-3130(2) and 21-3230 of the Land Development Code to meet the approval criteria and to carry out the general purpose and intent of this land development code and the comprehensive plan.

Zoning along Route and Reason for Conditional Use Permit:

Public, Planned Unit Development (PUD), Agricultural

The proposed interceptor route crosses the Commerce City Public District (Public), Agricultural District (AG), and Planned Unit Development (PUD) zone districts in Commerce City. Under the Land Use Table, found within Article V of the LDC, a public utility pipeline installation is allowed with a Conditional Use Permit in all Commerce City zone districts- hence, the need for this application and review. Additional City approvals will be needed, including a permit or intergovernmental agreement pursuant to Chapter 22 of the Commerce City Revised Municipal Code (Matters of Statewide Importance), floodplain permits, temporary use permits, and construction and grading permits. The City is current negotiating an Intergovernmental Agreement with MWRD to serve in lieu of a Chapter 22 permit; that agreement will include additional terms to mitigate the impacts of the project to the City, residents and businesses, infrastructure, nuisances, and the environment.

Site Attributes and Surrounding Area:

Existing land use in the Commerce City project area is varied and includes a mix of residential, commercial, parks/open space, and industrial land uses. The interceptor route crosses in proximity to planned unit development areas and parallels the alignment of the existing Second Creek waterway and associated floodplain for a majority of its path. The character of the surrounding area in the northern part of the proposed route is largely open space and future development. As the route gets

closer to Chambers and East 104th, the surrounding area is more highly developed with a combination of commercial, and master planned communities. The area then transitions to more Industrial development as the interceptor continues south towards Denver.

Applicant's Request

Second Creek Interceptor

The Metro Wastewater Reclamation District (MWRD) is one of the largest water public utility service providers in the United States (U.S.). The District serves approximately 1.8 million people in the Denver metropolitan area, including the City of Commerce City through SACWSD, the City and County of Denver (Denver) and portions of Adams, Weld, Arapahoe, Douglas, and Jefferson Counties. The District provides wastewater transmission and treatment services to 22 Member Municipalities and 26 Special Connectors over the 715-square-mile area. The District conveys, treats, and recovers approximately 130 mgd of water.

With a mission to protect the region's health and environment by cleaning water and recovering resources, the District is one of the leading public agencies in innovation and resource recovery stewardship. The MWRD's Northern Treatment Plant (NTP), located in the City of Brighton (Brighton), Colorado, provides treatment to the District's northeastern service area. The District's 6.8-mile South Platte Interceptor (SPI) was constructed in 2015 to convey wastewater flows from several contributing agencies to the NTP for treatment. The SD Interceptor will convey flows to the SPI and ultimately to the NTP. The regional system for the service area is shown on Figure 1-2 of the applicant's narrative.

As part of the evolution of regional planning for the NTP, the *Sand Creek and Second Creek Basins Regional Master Plan* (RMP) was completed (Carollo and Jacobs 2017) to identify the optimal regional solution for providing cost-effective, long-term wastewater conveyance for its Member Municipalities and Special Connectors. The RMP was developed through the collaborative efforts of Aurora, Brighton, Denver, Denver International Airport (DEN), and SACWSD, the wastewater treatment service provider for Commerce City. Of all alternatives evaluated, it was determined that construction of the SD Interceptor will provide the greatest long-term economic benefit by collecting the most flows in the upper and lower Second Creek Basin and conveying them by gravity to the SPI and NTP. The SD Interceptor will allow for decommissioning of six existing lift stations immediately and up to three additional existing lift stations in the future, provided necessary local infrastructure is constructed by contributing agencies to the SD Interceptor. In addition, the SD Interceptor will preserve capacity at the Robert W. Hite Treatment Facility (RWHTF) to support growth in its existing service area.

The SD Interceptor also will divert a portion of the flow from the lower Sand Creek Basin, which will limit the SCIS improvements to the phased upsizing or parallel installation of existing segments to alleviate capacity bottlenecks in the system. The SCIS improvements include the Phase 1 segment on the RWHTF property, which was previously approved by the City under a Conditional Use Permit, and the Phase 3 segment on the adjacent Suncor Refinery, which is being submitted for the City's approval with this Conditional Use Permit Application.

The RMP alignment for the SD Interceptor was determined based on aerial imagery, topography, site observations, identified wetlands, discussions with stakeholders, and potential connectors. Since the RMP was issued, some of the areas surrounding the RMP alignment have experienced rapid development, and portions of the alignment are no longer viable. This information, combined with environmental and technical data, as well as stakeholder input collected during the preliminary design phase, provides the basis for the alternative alignments analysis in Section 2.0 of MWRD's application.

The SD Interceptor and SCIS Phases 1 and 3 improvements have their basis in the RMP, with modifications made during the preliminary design phase to account for a variety of factors.

The proposed 17.5-mile SD Interceptor alignment spans multiple cities and counties along the northeastern part of the Denver metropolitan area. The interceptor will begin at Aurora's Second Creek Lift Station located roughly 0.5 mile south of East 75th Avenue and Gun Club Road and end at an existing MWRD SPI connection structure located at 136th Avenue immediately west of the South Platte River. The pipe diameter ranges from 36 to 60 inches. Approximately 6.4 miles of the proposed SD Interceptor is located in Commerce City, which includes a combination of open-cut installation and three trenchless crossings of critical roadways, rail tracks, and canals/ditches. The Project will be executed using a Construction Management-at-Risk delivery model, which involves the contractor providing constructability input throughout the final design phase of the Project.

Flows will be directed from Aurora's Second Creek Lift Station and Denver's Gateway Lift Station to the SD Interceptor. The first branch of the interceptor will collect flows from Aurora's Second Creek Lift Station. The second branch will convey flows from Denver's Gateway Lift Station and upstream flows from the First Creek Basin. These two branches will meet at a junction point at approximately East 81st Avenue and North Tower Road. The remainder of the SD Interceptor extends from the junction point to its ending location at the SPI connection structure.

The segments upstream from Denver's Gateway Lift Station identified in the RMP are not included in this Project and will be part of separate projects.

The SD Interceptor recommended alignment will be constructed primarily within temporary and permanent easements across private parcels with limited construction in public rights-of-way (ROWs). This is required to accommodate construction widths of 120 feet or more depending on depth, which eliminates most ROW corridors from consideration because of existing utilities. There are 41 parcels within the limits of Commerce City that will be affected by construction, operation, and long-term maintenance of the SD Interceptor. The parcel impacts will affect 19 owners. The largest affected parcel owner is Commerce City, which owns 10 of the impacted parcels.

Six agencies will be capable of contributing flows to the SD Interceptor, including SACWSD (which includes the City), Aurora, Brighton, Denver, DEN, and the County. Population and flow projections were determined using a 50-year planning period (2015 to 2065) and a system-wide per capita dry weather flow factor of 80 gallons per capita per day. These data, coupled with the preliminary flow projections from each contributing agency, were used to determine preliminary pipe diameter sizes for the SD Interceptor.

The SD Interceptor reflects the most feasible solution to adding the necessary conveyance capability to accommodate growth in the service area. Furthermore, the SD Interceptor is consistent with

Colorado Department of Public Health and Environment (CDPHE) and Adams County Water Quality Association policies that encourage regionalization of wastewater facilities.

Other Jurisdictions Affected:

The following jurisdictions are also reviewing this interceptor through their own special use permit processes. They include the City and County of Denver, Adams County, the city of Aurora, and the city of Brighton. As of the date of this report, only the Adams County Planning Commission has conducted a hearing on their portion of the interceptor and it was only in an advisory capacity that did not require a vote. Adams County Board of County Commissioners has this case scheduled for August. The city of Brighton Council will review the case in September and both Denver and Aurora have administrative review processes under way.

Sand Creek Interceptor Improvements

The SCIS improvements include the approximately 0.5-mile Phase 1 segment on the RWHTF property and the approximately 0.29-mile Phase 3 segment on the adjacent Suncor Refinery property to alleviate capacity constraints in the system. The Phase 3 segment is being submitted for the City's approval with this Conditional Use Permit Application.

The alignment for the SCIS Phase 3 improvements will follow the existing SCIS on the Suncor Refinery property with an address of 5801 Brighton Boulevard in Commerce City, Adams County, Colorado, situated immediately east of the MWRD's RWHTF. The existing 42-inch interceptor will be removed and replaced with a larger 66-inch interceptor in the same alignment.

The SCIS Phase 3 improvements are within Commerce City as shown on Figure 1-5 of the applicant's narrative. Because of several large construction projects at the District's RWHTF, the anticipated start for the construction of the SCIS improvements is unknown and will be determined later in 2020. As such, the District requests that the City allow flexibility on the timing of construction in CUP conditions of approval without permit expiration or extension request.

Development Review Team Analysis

Because of the unique nature of this application and project, the analysis is organized into smaller sub-categories with a brief description. Full descriptions of each of these items can be found within the overall narrative summary and operation description submitted by the applicant.

Physical Site Characteristics Statistics:

Item	Proposed
Total Approximate Pipeline Length	17.5 miles
Approximate Pipeline Length in City	6.4 miles
Pipeline Outside Diameter	36 to 60 inches
Approximate Width of Construction	40 feet of permanent easement
Pipeline Cover Depth	5-50 feet

The proposed interceptor route through Commerce City is significant at approximately 6.4 miles in length. This length is due to the interceptor's route following along Second Creek to connect Aurora's Second Creek Lift Station to MWRD's Northern Treatment Plant in Brighton. Permanent easements that would be required for the proposed project are 40 feet wide (20 feet on each side of the pipeline).

Additional temporary construction easements with widths of 120 feet or more depending upon the depth of the interceptor will also be required. These numbers seem to be standard and customary for pipeline projects of this nature. After construction; it is not likely that any new permanent buildings or structures will be allowed directly over the interceptor. MWRD proposes restrictions on the installation of roadways, sidewalks, trails, grasses, and shrubs over the interceptor, which will be determined as part of the negotiation of easements.

Comprehensive Plan:

The DRT recommendation for this case is supported by the following Comprehensive Plan Goals:

<u>Section</u>	<u>Goal</u>	<u>Description</u>
FS 1.7	Partner with Water District/Utilities	Coordinate with the utility districts to align goals and plan for future development and growth that is consistent with the Future Land Use Plan, avoiding restrictions on desirable development patterns, such as infill.
<u>Analysis:</u>	This particular project highlighted the collaboration between MWRD, SACWSD, and Commerce City. The future land use plan, future roadway networks, and current and future developments were all taken into account for this proposed alignment of the interceptor. The project itself takes into account the future wastewater capacity needs for the city's continued development.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
PF 1.4	Water and Wastewater Utilities Coordination	Coordinate with South Adams County Water and Sanitation District to ensure adequate supply of water and wastewater treatment capacity for future development before development occurs.
<u>Analysis:</u>	This project has been an effective coordination between the City, SACWSD and MWRD. This interceptor will help to allow for future growth for Commerce City, its residents, and its businesses.	

<u>Section</u>	<u>Goal</u>	<u>Description</u>
P3.1	Expanded Greenway System	Implement existing plans to expand the greenway and open space network along rivers, creeks, canals, drainage, and utility corridors. Provide trail-oriented recreation and connections between neighborhoods, parks, and other origins and destinations, including to the National Wildlife Refuge. The Emerald Strands Plan (1990) and more recent plans—South Platte River Corridor Heritage Plan (1999), Adams County Open Space Plan (1998), and Prairieways Action Plan (1999), provide guidance and implementation strategies.
<u>Analysis:</u>	The maintenance access roads required as part of this project will serve dual purposes in some areas as expansions to the City's trail network along Second Creek. This highlights the collaboration between MWRD and Commerce City. Without this project contributing to the trail network, it might be years into the future before the trails might otherwise be built.	

Pipeline Crossings:

Along the 6.4-mile stretch through Commerce City, the interceptor crosses eight major roadways, and two ditches. Outside of the Commerce City section, the interceptor also crosses a few state highways and railroads. In most high traffic areas, the interceptor will be bored under the roadway to minimize

traffic disruptions. In other areas, the interceptor is installed using an open cut trench method. For areas with open cuts, the traffic impacts will be addressed and mitigated, to the extent feasible, through the review and approval of a Traffic Control Plan. The vegetation along the proposed project consists mainly of planted grass, agricultural fields, or native seed areas. Most of the alignment of the interceptor will be along the floodway of Second Creek in areas where the land is undeveloped open space. Once construction in the area is completed, the right-of-way will be reseeded and monitored until final site stabilization has been achieved in accordance with the requirements of the City and state.

Road/Railroad	Jurisdiction	Construction Method	Section	Town	Range	Min. Depth of Cover (feet)
East 96th Avenue	Commerce City	Tunnel	16, 17, 20, 21	2S	66W	5
East 112th Avenue	Commerce City	Tunnel or Open Cut	7	2S	66W	5
East 104th Avenue	Commerce City	Tunnel	8, 17	2S	66W	5
East 120th Avenue	Commerce City	Tunnel	1	2S	67W	5
Chambers Road	Commerce City	Tunnel	7, 8	2S	66W	5
East 88th Avenue	Commerce City	Open Cut	21, 28	2S	66W	5
Tower Road	Commerce City	Tunnel	27, 28	2S	66W	5
East 81st Avenue	Commerce City	Open Cut	28	2S	66W	5
US Highway 6/ BNSF Railroad	BNSF	Tunnel	12	3S	68W	5
N-Line	RTD ¹	Tunnel	36	2S	66W	5

Note:

¹ RTD = Regional Transportation District

Examples of the boring tunnel and open cut trench methods can be seen in section 5 of the application. Staff is supportive of the proposed construction methods identified for each of the crossings.

Access:

Access to the proposed project would be from MWRD owned permanent and temporary easements, private land, and county and state thoroughfares along the length of the interceptor. Multipurpose gravel access roads will be installed for maintenance along Second Creek and some cases these roads will also serve as community trails. Access roads are needed for maintenance of proposed manholes along the alignment. MWRD is responsible for obtaining all easements and access rights.

Staff is supportive of these maintenance roads as they partner to provide cost effective expansions to the City's trail network.

Drainage and Erosion Control:

The District will implement erosion and sedimentation control measures during and after construction activities to avoid and minimize adverse water quality effects. Final erosion control measures will be inspected and maintained until disturbed areas are revegetated to the coverage required by applicable permits.

A stormwater management plan (SWMP) would be developed and implemented as a part of the grading permit to minimize erosion and prevent sediment input to waterbodies. The Commerce City Engineering Division has indicated that a Grading, Erosion, and Sediment Control plan, report, and

permit is necessary for review and approval prior to the commencement of any construction activity. A condition has been placed on this application to accommodate this request.

Provision of Services:

FIRE PROTECTION: South Adams County Fire Protection District provides fire fighting to this affected area. The fire district has not indicated any opposition to this particular request and emergency access will be coordinated as a condition of application approval.

POLICE PROTECTION: The Commerce City Police Department provides emergency services to this affected area. The police department is aware of this application and the applicant will be required to coordinate emergency access plans with both the Police and Fire Departments as a condition of application approval.

WATER AND SANITATION: The affected area is located within the South Adams County Water and Sanitation District. There has been and will continue to be coordination between MWWRD and the water district with this project.

OTHER UTILITIES: Utility service providers in this area are Xcel Energy (Gas and Electric), United Power (Electric), Century Link (telephone), and Comcast (cable). United Power provided no comment on the application. The City did not receive a response from either Century Link or Comcast at the time this staff report was written. Xcel Energy stated they had no additional concerns in the last round of referrals on this application.

Public Notice and Input:

Two Neighborhood meetings were held by the Metro Wastewater Reclamation District for its proposed Second Creek Interceptor and Sand Creek Interceptor System Improvements Projects. Meetings were held on July 10 (Bison Ridge Recreation Center) and July 17, 2019 (Eagle Pointe Recreation Center) in Commerce City. Notification postcards were mailed more than 3 weeks before the meeting to all residents and property owners located within 500 feet of the interceptor alignment. A total of 4,575 notifications were mailed. The meeting included open house discussions where members of the public could ask subject matter experts questions on the proposed alignment. After signing in and receiving a bilingual fact sheet regarding the alignment, attendees were encouraged to visit six stations to gather information, get questions answered from project representatives, and submit comments. Each station had a series of topic-specific display boards as well as supplemental maps and flyover video of the pipeline alignment.

Five people attended the first meeting and three attended the second. The majority of attendees were property owners near the alignment, including a representative from Suncor Energy, while another represented the Sand Creek Regional Greenway. Spanish language interpretation was offered to facilitate bilingual discussion, but was not required. Additional information has been made available via the website.

Landowners within this area have been informed of the proposed project and will continue to be informed of any project changes. The applicant also has a construction outreach plan drafted to inform property owners and the public of construction activities during the project.

Oversight of Governmental Agencies:

There are many agencies that provide regulations for a pipeline of this nature. All of these agencies help to ensure the safest, best project possible with the least impacts to the surrounding areas. The following list highlights many of the federal, state, and local agencies that regulate this particular project:

- US Army Corps of Engineers
- US Fish and Wildlife Service
- Colorado Parks and Wildlife
- Colorado Department of Public Health and Environment – Air Pollution Control Division
- Colorado Department of Public Health and Environment – Water Quality Control Division
- Colorado Department of Public Health and Environment – Hazardous Materials and Waste Management Division
- State Historical Preservation Office
- Colorado Department of Transportation
- Colorado Division of Water Resources
- City of Commerce City
- Adams County
- City and County of Denver
- City of Aurora
- City of Brighton

Proximity to Schools:

The interceptor route will cross a small portion of School District 27 J's Stuart Middle School Site. No structures will be impacted. The school district is aware of this application and coordination to complete construction when school is not in session is required where practicable as a condition of application approval.

Rocky Mountain Arsenal National Wildlife Refuge:

Construction in proximity to the Refuge will not result in the potential for the public to be exposed to hazardous materials once used at the Refuge. No construction will occur on current Refuge property and any potential for encountering hazardous materials will be considered and mitigated in advance through cooperation with the local health department.

Above-Ground Structures:

With the exception of one metering facility above-ground and the manholes placed along the interceptor on top of the proposed alignment, the proposed project will be buried entirely underground. Upon completion of the construction and revegetation, ground disturbance and the introduction of the above-ground appurtenances would not be noticeable to the casual observer.

The MWRD has coordinated with the DIA/Nexus North development regarding the proposed location of the SD Interceptor metering facility south of East 88th Avenue. It is primarily a below-grade structure consisting of access provisions to an underground vault and above-grade electrical panel. It is compatible with the commercial development in the area.

Manholes will be at or below grade with access hatches at final grade.

Lighting:

The applicant indicates that there is no lighting proposed for the metering facility or along the interceptor route. No lighting will be permitted as part of this permit.

Noise, Dust, Vibrations, Odor, and Other Nuisances

During construction, the SD Interceptor project will result in temporary nuisances, including increased noise, dust, traffic, and vibration that are typical of construction activities. These nuisances are expected to be localized to the area of activity and are not expected to have long-term impacts.

According to Commerce City Unreasonable Noise Regulations, construction equipment operating between the hours of 7 a.m. and 8 p.m., is an exemption to the noise requirements. Construction work hours will vary based on activity and season but will generally occur from 7:00 AM to 7:00 PM, Monday through Saturday on the project. Requests for work hours on Sundays, holidays, or outside of the normal construction hours will be coordinated with the City. Chapter 10 of the Commerce City Municipal Code will govern work hours within the ROW.

Parking and vehicle storage for construction employees will be in designated staging areas on private parcels within temporary construction easement areas. At the peak of construction, designated staging areas will have sufficient parking for employees, equipment, and materials.

The SD Interceptor project is proposed as a fully underground gravity sewer interceptor with manholes that are vented to the atmosphere. Nuisance odors in sewers are often the result of the buildup and off-gassing of hydrogen sulfide, which often occurs when dissolved hydrogen sulfide is released from solution during turbulent flows. To prevent turbulent flows and excessive off-gassing, the project is designed to maintain sub-critical, laminar flow throughout the pipeline. Locations where flows mix, such as at connection structures and where potential pressurization may occur, are designed to maintain negative pressure and draw odorous gases downstream to an odor control facility outside of Commerce City.

Because flows in the SD Interceptor will be via gravity, noise and vibration impacts from the permanent operation of the interceptor are not anticipated.

Permanent gravel (crusher-fine) access roads, constructed according to Commerce City Parks and Recreation standards for multipurpose trails, used for maintenance of the SD Interceptor will be designed to reduce dust generation. The roads are expected to experience limited use for maintenance during the life of the interceptor.

Aboveground and belowground structures are designed to eliminate access to the sewer by rodents or other animals. The connection structures and metering facility will be equipped with vents and small openings that will be fitted with screens to keep rodents and insects out of the sewer. Where trenchless construction is employed, surface disturbance will be limited to tunneling shafts at regular intervals, with associated equipment at the launch shaft, resulting in fewer visual impacts than with open-cut construction. The estimated time from access pit excavation to backfill is 6 to 8 weeks, depending on geology and the length of pipeline between access pits.

Pipeline construction for the SD Interceptor is expected to be completed in 3 years.

A condition has been added to reflect noise and dust mitigation procedures. Staff believes these practices are sufficient given a project of this magnitude.

Landscaping:

Areas affected by construction activities would be reclaimed, but no additional landscaping is proposed as a part of the project. Trees and vegetation removed during the course of construction would be replaced. The applicant has agreed to follow the weed management and revegetation practices contained within their application. A condition has been added to reflect this.

Construction:

Construction is anticipated to be phased such that the interceptor is constructed in segments to avoid lengthy construction impacts on localized areas. Construction of the SD Interceptor is scheduled to begin in the fall of 2020 and the last phase is expected to be completed by early 2024.

The number of employees actively engaged in construction will vary depending on the construction stage of the SD Interceptor, season, and number of crews involved. During construction, an average of 5 to 30 employees are estimated to be working in a given area. There will be no permanent personnel or activities at the site once the interceptor is in service.

During the construction phase, daily trips will include the delivery of materials and equipment to the approved staging areas, personal commuting associated with construction activities, and restoration of disturbed areas, among other activities. Construction traffic impacts will be temporary and vary from day to day.

Based on a conceptual construction plan, the estimated number of average trips per week needed for construction of the SD Interceptor includes the following:

- Pickup trucks: 150 per week
- Lowboy transport trailers: 5 per week
- Earth-hauling trucks: 50 per week
- Inspection trucks: 50 per week
- Water trucks: 10 per week
- Pipe trucks: 15 to 40 per week
- Pipe bedding trucks: 138 per week

These impacts generally will be localized around the construction area and will not occur across the entire alignment for the duration of construction.

Construction Activity and Equipment

Construction Activity and Sequence	Construction Equipment
Open Cut – Clearing/Grubbing/Demolition	Bulldozer, loader, jackhammers, backhoe
Open Cut – Excavation	Tracked excavator, wheeled excavator, backhoe
Open Cut – Pipe Installation and Backfill	Tracked excavator, wheeled excavator, bulldozer, grader, wheel loader, dump truck
Open Cut – Compaction	Sheepsfoot roller, vibratory roller
Tunneling – Shaft Construction	Crane, sheet pile driver, tracked excavator, bobcat
Tunneling – Boring	Tunneling machine, generator, slurry separation plant, crane

Tunneling – Grouting	Concrete mixer, concrete pump
General	Forklift, generator, survey truck, water truck, pickup truck, equipment service truck
General – Concrete	Concrete mixer, concrete pump
Restoration – Grading	Bulldozer, grader, land planer
Restoration – Seeding	Hydroseeder, mulcher, tiller
Restoration – Paving	Paver, roller

All construction work would be coordinated with local police, traffic engineers, and an approved Traffic Control Plan. Construction of the proposed project would take place between the hours of 7 a.m. and 7 p.m., 6 days a week (Monday through Saturday) and would be in conformance with Section 6-2011 – Unreasonable Noise (of the Commerce City Revised Municipal Code).

The MWRD performed fieldwork during the design phase that included topographic surveys, geotechnical borings, utility potholing, pumping tests, wetland delineations, historical and archaeological surveys, raptor nest surveys, tree surveys, and habitat and presence/absence surveys for threatened and endangered species. Field surveys will be performed throughout the construction phase to identify any new improvements prior to the start of construction, establish interceptor elevations, and record as-built conditions. Utility locates will be conducted to identify any new utilities installed after the design phase investigation and before work begins. The District will perform environmental field surveys prior to construction of interceptor segments to confirm that construction may commence, and will conduct environmental monitoring during construction activities to confirm compliance as required by permit, regulatory guidance, and applicable industry good practice. The environmental surveys and monitoring will include wetlands, trees, weeds, raptor nests, migratory bird nests, and protected species habitat.

The expected construction sequence for the open-cut sections of the SD Interceptor project is as follows:

1. Document the existing condition of the alignment and install temporary erosion control measures in accordance with the Grading, Erosion, and Sediment Control Plans and Grading Permit. Also obtain a Floodplain Permit for work in the 100-year floodplain.
2. Prepare the construction area and commence construction, including clearing and grubbing, and implement traffic control measures.
3. Survey the location of the improvements to finalize spatial location.
4. Use the approved materials and methodologies from the utility owners to complete utility relocations necessary to accommodate the SD Interceptor.
5. Excavate the trench and haul off or stockpile soil. The depth of trench will vary greatly depending upon existing topographical conditions.
6. Prepare the excavation and install the pipe, metering facility, and manholes. The as-built conditions will be recorded.
7. Backfill the trench and compact it.
8. Perform surface finish work, including installation of manhole covers and collars, connection structure covers and collars, access road construction, and pipeline marking.
9. Restore the site to existing or improved conditions.

Trenchless construction operations will follow a similar sequence; however, with tunneling, the surface disruption will be minimized:

1. Document the existing condition of the alignment and install temporary erosion control measures in accordance with the Grading, Erosion, and Sediment Control Plans and Grading Permit. Also obtain a Floodplain Permit for work in the 100-year floodplain
2. Begin preparation of the construction area in the area of the tunnel shafts.
3. Survey the location of the improvements to finalize spatial location.
4. Use the approved materials and methodologies from the utility owner to complete utility relocations necessary to accommodate the SD Interceptor.
5. Excavate tunnel shafts and install shoring. Perform preparatory activities, including slurry plant construction and equipment mobilization.
6. Install the tunnel casing pipe between the two shafts. Frequently monitor the area above the tunnel via visual monitoring and survey activities.
7. Install the carrier pipe and grout the annular space.
8. Install manholes within the tunneling shafts and backfill the shafts.
9. Perform surface finish work, including installation of manhole covers and collars, connection structure covers and collars, access road construction, and pipeline marking.
10. Restore the site to existing or improved conditions.

Staging Areas:

Staging areas for the project will be determined closer to the start of construction and will be permitted according to established City processes. A condition has been added to reflect this.

Traffic Control:

Traffic Control measures will be coordinated with the City's Engineering Division as a part of the traffic control plan. No roads will be completely closed as a result of the construction of this project. A condition has been added to reflect this.

Hazardous Materials:

Hazardous materials could be encountered during construction. Therefore, properties need to be identified that may contain contamination prior to ROW acquisition and construction. Hazardous materials are defined as any waste product that is considered flammable, corrosive, reactive, or toxic. Hazardous materials can be found in various forms and can originate from a variety of sources. Examples of potential sites that may contain hazardous waste include landfills, service stations, industrial areas, railroad corridors, and mine sites.

MWRD, in coordination with Tri-County Health Department and CDPHE, will provide the following mitigation measures.

Recommended Hazardous Materials Control Measures during Construction

Impact	Impact Type	Mitigation Measures
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Existing Hazardous Materials Sites Adjacent to Areas of Proposed Excavation and Acquisition of Property	Construction (Temporary)	• Prepare a Health and Safety Plan and a Hazardous Materials Management Plan to address contamination as described in this assessment and others that may follow, in accordance with CDPHE Environmental Spill Reporting. • Conduct appropriate asbestos surveys and abatement prior to demolition of buildings (if any), per applicable state and federal regulations. • Evaluate whether any landfill material proposed for construction contains asbestos-containing material, in accordance with CDPHE Solid Waste Regulations. Determine necessary engineering controls to minimize exposure to contaminated materials. • Determine cost recovery of hazardous material sites where removal actions and long-term maintenance are required.
Water Quality Protection	Construction (Temporary)	Implement construction control measures in accordance with an SPCC plan. The CDPHE may include secondary containment areas for refueling construction equipment, berms or ponds to control runoff, and monitoring to test stormwater runoff for contaminants prior to discharge from the construction site.
Protection of Construction Workers	Construction (Temporary)	Compliance with OSHA requirements for construction workers who may be exposed to hazardous materials, including completion of and adherence to the Health and Safety Plan, performing applicable air monitoring, and provision of personal protective equipment.

A condition has been added to require the mitigation measures described. Staff finds these mitigation measures to be appropriate for the project.

Adverse Impacts:

Other than the temporary inconvenience due to noise, dust, and exhaust, generated by the equipment necessary to dig trenches, install the new pipeline, backfill, restoration and road crossing borings, as well as traffic control during the pipeline installation process, it is not anticipated that the proposed project will adversely impact the use or enjoyment of adjacent lands. Construction activities will be limited to areas with temporary and permanent easements and will not otherwise occur on private property.

Protection of Future Economic Development in Commerce City:

The proposed project has been reviewed by the City's Economic Development Division to ensure that the interceptor alignment would not impede future economic development in Commerce City. MWRD, at increased expense to the project, revised the alignment of the interceptor to prevent impacts to the Second Creek Village Commercial Development, specifically State House restaurant. MWRD also altered the alignment to prevent impacts to the City's newly constructed Bison Ridge Recreation Center. Staff acknowledges and greatly appreciates these efforts and cooperation in furthering the Economic Development Goals of the City.

Pipeline Safety Features, Operations, and Leak Detection:

The District's Transmission Division is responsible for operating and maintaining its transmission facilities, which includes approximately 238 miles of interceptor sewers and force mains, including roughly 3,730 manholes, 30 siphons, 77 diversion structures, three lift stations, and three odor control

systems. The group also maintains 99 metering facilities and the sampling program used for the District's annual charges and industrial waste pretreatment monitoring.

The MWRD has several programs in place as part of its Facility Inspection Program (FIP). The overall objectives of the FIP are to minimize risks to human health and the environment that might result from wastewater releases from the District's interceptor system, continually document the condition of the overall transmission system, and respond as necessary to sanitary sewer overflows and events within the served area of the District. The FIP includes manhole and structure surface inspections, line cleaning, and interceptor closed circuit television (CCTV) inspections. The Interceptor Infrastructure System Database is used extensively to schedule future work, track progress of performed work, document facility condition assessments, and archive data. The general goals of the FIP are as follows:

- Identify and remove debris accumulations that reduce hydraulic capacity.
- Identify recurring problem areas within the interceptor system from accumulations of grease, grit, roots, debris, or other hydraulic gradient anomalies.
- Assess structural integrity of interceptor components.
- Compile overall condition assessments to assist in interceptor system operation.
- Provide maintenance and capital improvement planning.
- Visually inspect, via CCTV, at least 10 percent of the interceptor (pipe) system each year.
- Visually inspect manholes in the field at least every 3 years.

These activities are summarized in the 2017 Annual Operating Report and describe the MWRD's approach to reducing the risk of sanitary sewer overflows through management, inspection, and maintenance. These activities apply to all MWRD systems, including the proposed SD Interceptor. In addition to the 2017 Annual Operating Report, the Transmission Emergency Response Schedule and Procedure is also included in the application. A complete description of all the various safety components of this particular pipeline can be found in the applicant's Appendix D.

Staff believes MWRD has a proven track record with their existing infrastructure and does not have any concerns regarding the new pipeline.

Project Alternatives:

An important part of this project was refining the alignment for the interceptor from what was established in the RMP. New information has been received from the District's ongoing facility planning and preliminary design efforts that warrants refining the alignments. This information, which includes environmental and technical data as well as stakeholder input, provides the basis for the alternative alignments analysis.

Several interceptor alignment alternatives were developed and evaluated to determine the recommended SD Interceptor alignment. The Metro District considered many constraints in the development of the alignment alternatives, including topography, environmental resources, costs, utility and traffic conflicts, design considerations (length and depth), land acquisitions, business disruptions, and economic and non-economic factors. The District also took into account minimizing impacts on sensitive areas and maximizing the possibility of shared corridors or resources for future maintenance, and input from potentially affected stakeholders.

A detailed description of the analysis of the alternatives considered can be found in the Appendix B of MWRD's application. The City actively worked with MWRD in evaluating the alternatives and is supportive of the proposed alignment. Only one alignment will be approved as part of this permit.

Sand Creek Interceptor Improvements:

The Sand Creek Interceptor (SCIS) Phase 3 improvements will consist of removing the existing 42-inch SCIS and replacing it with a larger 66-inch interceptor pipe in the same alignment within the Metro District's easement. The alignment was selected to take advantage of the existing easement and to minimize the disturbances to the area of known asbestos contamination and historical Landfill AD-117 within the Suncor property.

A hydraulic model was used to evaluate the interceptor diameter required to accommodate the updated population and employment projections for Denver and Aurora for the area tributary to the SCIS for the 2065 planning period. A unit factor of 80 gallons per capita per day was used to calculate the average annual flow. The applicant's narrative presents a summary of the updated 2065 peak wet weather flow projection. The assumption was made that the SD Interceptor will be constructed. Based on the hydraulic model results, the existing 42-inch interceptor will be removed and replaced with a 66-inch interceptor.

Staff is supportive of the additional upgrades to the Sand Creek Interceptor. It will allow MWRD to meet the needs of future growth and development with Commerce City and the Denver-Metro Region.

Summary:

Staff has evaluated all of the information above, the applicant's proposal, request, and application materials, referral and agency comments, and public input associated with this request. In addition, staff has reviewed the project against the Comprehensive Plan and City's Land Development Code, specifically as it relates to findings for the granting or denial of a Conditional Use Permit. In staff's assessment, the proposed location and alignment may be supported, as subject to the proposed conditions and any additional information that may be presented at the Planning Commission meeting.

Staff supports the proposed alignment as it minimizes impacts to high profile projects within the City and also reduces traffic impacts by boring most major roadways as opposed to open cut trenching them. The project has the added benefit in installing maintenance access roads that will also serve as trails for the community. If the project were not to be approved, it would ultimately affect the potential for future development within the City by limiting wastewater service or increasing the cost. The Project also provides the following overall benefits:

- Allows for the closure of six existing lift stations initially and potentially three more in the future
- Reduces energy use and carbon footprint
- Decreases long-term operations and maintenance (O&M) costs
- Balances and preserves treatment capacity at regional water reclamation facilities
- Supports community growth and economic development projected for the next 50 years
- Preserves the natural character and landscape of the surrounding community

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
☒	The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they are envisioned to exist in any adopted City plan, program or ordinance;	This is an underground pipeline and will not be noticeable to the general public. Once operational, there should be no negative changes to traffic, parking, public improvements, etc. Because much of the alignment follows Second Creek, there should not be a substantial or undue adverse effect

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
		on adjacent property. The recommended conditions further satisfy this criteria.
☒	Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;	The applicant has worked hard to minimize the potential adverse impacts of the project by utilizing the Second Creek floodway. The applicant has also worked hard to create as few disruptions as possible during construction and adjusted the alignment of the project to reduce conflicts with projects that are important to the City. The recommended conditions further satisfy this criteria.
☒	The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;	The project alignment is large enough to accommodate all of the various aspects of the project. Special attention has been placed on utilizing sites and alignments with few or no impacts. The recommended conditions further satisfy this criteria.
☒	The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents or the applicant has committed to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;	The site has been reviewed by all utility and emergency operations and departments who fully expect to be able to service this project effectively. There has been no indication that this project would pose an undue burden on any of these departments or utilities. It will also reduce the burden on the SACWSD by alleviating the need for lift stations in the future and providing additional connection options. The recommended conditions further satisfy this criteria.
☒	The applicant has provided adequate assurances of continuing maintenance;	After the SD Interceptor is installed, disturbed areas will be returned to pre-construction grades and revegetated by the applicant. The property owner will be responsible for the on-going maintenance of the above ground property unless otherwise specified in the easement. MWRD has a strong commitment to maintaining the interceptor facility once installed and has several programs in place as part of its Facility Inspection Program (FIP). The recommended conditions further satisfy this criteria.
☒	No evidence suggests that the use violates any federal, state, or local requirements.	Not only did staff did not receive any comments to suggest that the applicant is anything other than compliant with all federal, state, and local requirements, this particular project has numerous levels of oversight and requirements from the local, state, and federal levels. The recommended conditions further satisfy this criteria.
☒	The proposed use complies with the general purposes, goals, objectives, policies, and standards of all City plans, programs, and ordinances	The proposed project would comply with the Comprehensive Plan in the areas of Economic Development, Transportation, Open Space and Recreation, and Environmental

Criteria Met?	Sec. 21-3230. Conditional Use Permits	Rationale
		Conservation. The proposed project would result in net economic benefits through construction. future open space and trail construction, and an increase in future utility infrastructure options. With the approval of the Conditional Use Permit the use will be compliant with the land development code. The recommended conditions further satisfy this criteria.
☒	The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the City.	This is an underground pipeline and will not be noticeable to the general public. Once operational, there should be no negative changes to traffic, parking, public improvements, etc. Because much of the alignment follows the Second Creek Floodway there should not be a substantial or undue adverse effect on adjacent property. The recommended conditions further satisfy this criteria.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a set forth in the Land Development Code with the recommended conditions imposed, and recommends that the Planning Commission forward the Conditional Use Permit request to the City Council with a favorable recommendation, subject to the following conditions:

Note: The recommended conditions are found on a subsequent page.

Recommended Motion

To recommend approval subject to condition(s):

I move that the Planning Commission enter a finding that, subject to certain conditions, the requested Conditional Use Permit for the project alignment identified on Exhibit B, contained in case **CU-123-20** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit subject to the following conditions found on the following page of this staff report:

Alternative Motions

To recommend approval:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the project alignment identified on Exhibit B, contained in case **CU-123-20** meets the criteria of the Land Development Code and, based upon such finding, recommend that the City Council approve the Conditional Use Permit.

To recommend denial:

I move that the Planning Commission enter a finding that the requested Conditional Use Permit for the project alignment identified on Exhibit B contained in case **CU-123-20** 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 Conditional Use Permit.

To continue the case:

I move that the Planning Commission continue the requested Conditional Use Permit for the project alignment identified on Exhibit B contained in case CU-123-20 to a future Planning Commission agenda.

CONDITIONS (Recommended by Planning Commission):

- A. Permit holder will comply with its application resubmittal dated May 2020 and the 95% design plans dated May 2020, to be consistent with the City Code and the conditions of approval.
- B. Alterations to the route of this pipeline outside of the approved easements, or any modification requiring raising the pipeline or its components above-grade (except as currently approved) will require an amendment to this Conditional Use Permit.
- C. The pipeline is to be used to transport wastewater, as defined in the Metro Wastewater Reclamation District's *Rules and Regulations Governing the Operation, Use, and Services of the System* (Rules and Regulations), including, but not limited to liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the District System, or in both such systems. Any change in the element being transported through this pipeline will require an amendment to this Conditional Use Permit.
- D. Due to the pipeline length and extended duration of construction, the pipeline will be constructed in a phased approach. Prior to commencing a phase of the pipeline construction within Commerce City, the permit holder shall obtain approval of the required permits and plans with respect that phase of construction and for activities in Commerce City and furnish a copy to the Planning Division, including without limitation:

- a. Temporary use permits and building permits for the construction staging areas and structures;
 - b. Construction drawings illustrating the tunnel or open cut construction methods identified in this conditional use permit (Commerce City Engineering Division);
 - c. Traffic control plan(s) (Commerce City Engineering Division);
 - d. Grading permit(s) (Commerce City Engineering Division), meeting all requirements set forth in the Commerce City Engineering Division's Engineering Construction Standards and Specifications and including Grading, Erosion, and Sediment Control (GESC) Plans;
 - e. Floodplain permit(s) (Commerce City Engineering Division) for each section of pipeline found within a Commerce City floodplain;
 - f. Emergency access/response plan (South Adams County Fire Protection District) (which must also be provided to the City's emergency manager and South Adams County Fire Protection District). This plan is to be kept up-to-date, and the permit holder shall notify the agencies previously listed within 90 days when a change is made to this plan;
 - g. Applicable State or Federal permits required for construction work within the Second Creek floodplain and wetland areas;
 - h. An issuing permit from CDOT;
 - i. Results of Pre-Construction Flammable Gas Monitoring and production of a Materials Management Plan. These documents shall outline mitigation of issues related to hazardous materials and flammable gas and include review from county and state health departments, as applicable. Submit the Construction Completion Report (Tri-County Health or CDPHE) after project completion.
 - j. A summary of their findings and proposed actions (if applicable) regarding properties with on-site wastewater treatment systems adjacent to the Second Creek Interceptor, including review from county and state health departments, as applicable, from Tri-County Health or CDPHE;
 - k. A fugitive dust plan and evidence of an Air Pollution Emission Notice (APEN) application from the Air Pollution Control Division, Colorado Department of Health and Environment.
1. Alternately, the permit holder can provide evidence from the APCD that they are not subject to these requirements;
- E. Prior to commencing a phase of the pipeline construction within Commerce City, the permit holder shall obtain the necessary property interests required for that phase of construction and operation of the Second Creek Interceptor and any temporary use or staging areas within Commerce City, including temporary and permanent easements, consents, licenses, and lease agreements, and furnish copies to the Planning Division, including without limitation from the following:
 - a. The Farmers Reservoir and Irrigation Company;
 - b. LC Fulenwider, Oakwood Homes, or owners of any property in the Reunion Development;
 - c. The City of Commerce City and any of its affiliated districts;
 - d. The South Adams County Water and Sanitation District;
 - e. Public Service Company of Colorado;
 - f. Brighton School District 27J and
 - g. Any other public or private owners.
 - F. Trails access shall not be closed by the permit holder's activities. The permit holder shall coordinate with Commerce City Parks and Recreation to ensure that proper notice, signage,

and alternative trail routes are established, if necessary, during construction near existing trails

- G. The permit holder shall repair any open space, trail, road, and right-of-way areas that may be damaged during construction or maintenance.
- H. The permit holder shall coordinate with Commerce City Parks and Recreation in the construction of any maintenance road and shall construct its maintenance road to Commerce City specifications for trails.
- I. The permit holder shall provide an outreach program to notify the community of construction activities, as provided in the applicant's narrative. The permit holder will provide at least 7 days notice of any activity affecting existing trails, sidewalks, or roadways to the Commerce City Communications Division, Public Works Department (for roads and sidewalks), and Parks and Recreation (for trails) to ensure that proper notice is provided.
- J. The permit holder shall notify all property owners by mail within 300-feet of the pipeline 7 days prior to beginning construction of the interceptor within the Commerce City boundaries.
- K. The permit holder shall restore any land disturbance as soon as possible. Revegetation will be in accordance with the storm water management plan permit and will be conducted as soon as possible or within the first available planting season.
- L. The permit holder shall follow the proposed noise and odor mitigation practices found in page 5-5 of the applicant's application narrative.
- M. The permit holder shall follow the weed management and revegetation practices outlined on page 5-3 of their application.
- N. The operation shall comply with all applicable rules and regulations of the state and federal agencies and the Commerce City Municipal Code and Land Development Code.
- O. The permit holder shall ensure, with approval of the Mile High Flood District, stream reconstruction at each open cut crossing of any major drainageway, including without limitation Second Creek and West Fork of Second Creek.
- P. The permit holder shall to meet directly with the applicable school districts and coordinate the timing of construction to occur during a time when school is not in session, to the extent practicable.
- Q. At the conclusion of the construction of the pipeline, the permit holder shall provide copies of 'as built' surveys, drawings, geotechnical data, and materials testing results to the city's Planning Division.
- R. The permit holder shall notify the Commerce City Planning Division if and when any permanent discontinuation of the use of this pipeline for wastewater transmission takes place. The permit holder shall be required to furnish a mitigation plan for the pipeline at that time.

Advisory:

- A. A license agreement with the City shall be required prior to any construction on property within Commerce City Rights-of-Way.
- B. This project is subject to Chapter 22 of the Commerce City Revised Municipal Code.

Staff is recommending Council consider approval conditions that include minor changes from the ones approved by Planning Commission. Changes were made to the conditions primarily to align the conditions with 1041 IGA for consistency, to improve formatting, and to correct typographical errors. The specific changes are noted and explained in the redline following the recommended, updated conditions.

Updated Conditions for Council Consideration:

- A. Permit holder will comply with its application resubmittal dated May 2020 with updates dated June 2020, August 2020, October 2020 and the 95% design plans dated May 2020, to the extent consistent with the City Code and the conditions of approval.
- B. Alterations to the route of this pipeline¹ outside of the approved easements, or any modification requiring raising the pipeline or its components above-grade (except as currently approved) will require an amendment to this Conditional Use Permit.
- C. The pipeline is to be used to transport wastewater, as defined in the Metro Wastewater Reclamation District's *Rules and Regulations Governing the Operation, Use, and Services of the System* (Rules and Regulations), including, but not limited to liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the District System, or in both such systems. Any change in the element being transported through this pipeline will require an amendment to this Conditional Use Permit.
- D. Due to the pipeline length and extended duration of construction, the pipeline will be constructed in a phased approach. Prior to commencing a phase of the pipeline construction within Commerce City, the permit holder shall obtain approval of the required permits and plans with respect that phase of construction and for activities in Commerce City and furnish a copy to the Planning Division, including without limitation:
 - a. Temporary use permits and building permits for the construction staging areas and structures;
 - b. Construction drawings illustrating the tunnel or open cut construction methods identified in this conditional use permit (Commerce City Engineering Division);
 - c. Traffic control plan(s) (Commerce City Engineering Division);
 - d. Grading permit(s) (Commerce City Engineering Division), meeting all requirements set forth in the Commerce City Engineering Division's Engineering Construction Standards and Specifications and including Grading, Erosion, and Sediment Control (GESD) Plans;
 - e. Floodplain permit(s) (Commerce City Engineering Division) for each section of pipeline found within a Commerce City floodplain;
 - f. Emergency access/response plan (South Adams County Fire Protection District) (which must also be provided to the City's emergency manager and South Adams County Fire Protection District). This plan is to be kept up-to-date, and the permit holder shall notify the agencies previously listed within 90 days when a change is made to this plan;
 - g. Applicable State or Federal permits required for construction work within the Second Creek floodplain and wetland areas;
 - h. An issuing permit from CDOT;

¹ As used herein, the term pipeline refers to an "interceptor" which is a sewer line with nominal pipe diameter equal to or greater than 24 inches that conveys sewage by gravity.

- i. Results of Pre-Construction Flammable Gas Monitoring and production of a Materials Management Plan. These documents shall outline mitigation of issues related to hazardous materials and flammable gas and include review from county and state health departments, as applicable. Submit the Construction Completion Report (Tri-County Health or CDPHE) after project completion.
 - j. A summary of their findings and proposed actions (if applicable) regarding properties with on-site wastewater treatment systems adjacent to the Second Creek Interceptor, including review from county and state health departments, as applicable, from Tri-County Health or CDPHE;
 - k. A fugitive dust plan and evidence of an Air Pollution Emission Notice (APEN) application from the Air Pollution Control Division, Colorado Department of Health and Environment. Alternately, the permit holder can provide evidence from the APCD that they are not subject to these requirements;
- E. Prior to commencing a phase of the pipeline construction within Commerce City, the permit holder shall obtain the necessary property interests required for that phase of construction and operation of the Second Creek Interceptor and any temporary use or staging areas within Commerce City, including temporary and permanent easements, consents, licenses, and lease agreements, and furnish copies to the Planning Division, including without limitation from the following:
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 - d. The South Adams County Water and Sanitation District;
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 - g. Any other public or private owners.
- F. The permit holder shall coordinate with Commerce City Parks and Recreation to ensure that proper notice, signage, and alternative trail access and routes are established, if necessary, during construction near existing trails
- G. The permit holder shall repair any open space, trail, road, and right-of-way areas that may be damaged during construction or maintenance.
- H. The permit holder shall coordinate with Commerce City Parks and Recreation in the construction of any maintenance road and shall construct its maintenance road to Commerce City specifications for trails.
- I. The permit holder shall provide an outreach program to notify the community of construction activities, as provided in the applicant's narrative. The permit holder will provide at least 7 calendar days' notice of any activity affecting existing sidewalks or roadways and 14 calendar days' notice for any activity affecting existing trails to the Commerce City Communications Division, Public Works Department (for roads and sidewalks), and Parks and Recreation (for trails) to ensure that proper notice is provided.
- J. The permit holder shall notify all property owners by mail within 300-feet of the pipeline 7 calendar days prior to beginning construction of the pipeline within the Commerce City boundaries.
- K. The permit holder shall restore any land disturbance as soon as possible. Revegetation will be in accordance with the stormwater management plan permit and will be conducted as soon as possible or within the first available planting season.

- L. The permit holder shall follow the proposed noise and odor mitigation practices found in page 5-5 of the applicant's application narrative.
- M. The permit holder shall follow the weed management and revegetation practices outlined on page 5-3 of their application.
- N. The operation shall comply with all applicable rules and regulations of the state and federal agencies and the Commerce City Municipal Code and Land Development Code.
- O. The permit holder shall ensure, with approval of the Mile High Flood District, stream reconstruction at each open cut crossing of any major drainageway, including without limitation Second Creek and West Fork of Second Creek.
- P. The permit holder shall meet directly with the applicable school districts and coordinate the timing of construction to occur during a time when school is not in session, to the extent practicable.
- Q. At the conclusion of the construction of the pipeline, the permit holder shall provide copies of 'as built' surveys, drawings, geotechnical data, and materials testing results to the city's Planning Division.
- R. The permit holder shall notify the Commerce City Planning Division if and when any permanent discontinuation of the use of this pipeline for wastewater transmission takes place. The permit holder shall be required to furnish a mitigation plan for the pipeline at that time.

Advisory:

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CONDITIONS:

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- C. The pipeline is to be used to transport wastewater, as defined in the Metro Wastewater Reclamation District's *Rules and Regulations Governing the Operation, Use, and Services of the System* (Rules and Regulations), including, but not limited to liquid wastes, solid wastes, night soil, industrial wastes, and any other substance, whether it be liquid, solid, in suspension, or in solution, in a Municipal Sewer System or in the District System, or in both such systems. Any change in the element being transported through this pipeline will require an amendment to this Conditional Use Permit.
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 3. Traffic control plan(s) (Commerce City Engineering Division);
 4. Grading permit(s) (Commerce City Engineering Division), meeting all requirements set forth in the Commerce City Engineering Division's Engineering Construction Standards and Specifications and including Grading, Erosion, and Sediment Control (GES-C) Plans;
 5. Floodplain permit(s) (Commerce City Engineering Division) for each section of pipeline found within a Commerce City floodplain;
 6. Emergency access/response plan (South Adams County Fire Protection District) (which must also be provided to the City's emergency manager and South Adams County Fire Protection District). This plan is to be kept up-to-date, and the permit holder shall notify the agencies previously listed within 90 days when a change is made to this plan;
 7. Applicable State or Federal permits required for construction work within the Second Creek floodplain and wetland areas;
 8. An issuing permit from CDOT;
 9. Results of Pre-Construction Flammable Gas Monitoring and production of a Materials Management Plan. These documents shall outline mitigation of issues related to hazardous materials and flammable gas and include review from county and state health departments, as applicable. Submit the Construction Completion Report (Tri-County Health or CDPHE) after project completion.
 10. A summary of their findings and proposed actions (if applicable) regarding properties with on-site wastewater treatment systems adjacent to the Second Creek Interceptor, including review from county and state health departments, as applicable, from Tri-County Health or CDPHE;

Commented [AJ-C1]: Updates submittal dates

Commented [AJ-C2]: Corrects typo

Commented [AJ-C3]: Footnote added to clarify pipeline versus interceptor definition.

¹ As used herein, the term pipeline refers to an "interceptor" which is a sewer line with nominal pipe diameter equal to or greater than 24 inches that conveys sewage by gravity.

11. A fugitive dust plan and evidence of an Air Pollution Emission Notice (APEN) application from the Air Pollution Control Division, Colorado Department of Health and Environment.
- 12-11. Alternately, the permit holder can provide evidence from the APCD that they are not subject to these requirements;
- E. Prior to commencing a phase of the pipeline construction within Commerce City, the permit holder shall obtain the necessary property interests required for that phase of construction and operation of the Second Creek Interceptor and any temporary use or staging areas within Commerce City, including temporary and permanent easements, consents, licenses, and lease agreements, and furnish copies to the Planning Division, including without limitation from the following:
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 2. LC Fulenwider, Oakwood Homes, or owners of any property in the Reunion Development;
 3. The City of Commerce City and any of its affiliated districts;
 4. The South Adams County Water and Sanitation District;
 5. Public Service Company of Colorado;
 6. Brighton School District 27J and
 7. Any other public or private owners.
- F. ~~Trails access shall not be closed by the permit holder's activities.~~ The permit holder shall coordinate with Commerce City Parks and Recreation to ensure that proper notice, signage, and alternative trail access and routes are established, if necessary, during construction near existing trails
- G. The permit holder shall repair any open space, trail, road, and right-of-way areas that may be damaged during construction or maintenance.
- H. The permit holder shall coordinate with Commerce City Parks and Recreation in the construction of any maintenance road and shall construct its maintenance road to Commerce City specifications for trails.
- I. The permit holder shall provide an outreach program to notify the community of construction activities, as provided in the applicant's narrative. The permit holder will provide at least 7 calendar days' notice of any activity affecting existing ~~trails, sidewalks, or roadways~~ and 14 calendar days' notice for any activity affecting existing trails to the Commerce City Communications Division, Public Works Department (for roads and sidewalks), and Parks and Recreation (for trails) to ensure that proper notice is provided.
- J. The permit holder shall notify all property owners by mail within 300-feet of the pipeline 7 calendar days prior to beginning construction of the ~~interceptor~~ pipeline within the Commerce City boundaries.
- K. The permit holder shall restore any land disturbance as soon as possible. Revegetation will be in accordance with the ~~storm water~~ stormwater management plan permit and will be conducted as soon as possible or within the first available planting season.
- L. The permit holder shall follow the proposed noise and odor mitigation practices found in page 5-5 of the applicant's application narrative.
- M. The permit holder shall follow the weed management and revegetation practices outlined on page 5-3 of their application.
- N. The operation shall comply with all applicable rules and regulations of the state and federal agencies and the Commerce City Municipal Code and Land Development Code.
- O. The permit holder shall ensure, with approval of the Mile High Flood District, stream reconstruction at each open cut crossing of any major drainageway, including without limitation Second Creek and West Fork of Second Creek.
- P. The permit holder shall ~~to~~ meet directly with the applicable school districts and coordinate the timing of construction to occur during a time when school is not in session, to the extent practicable.
- Q. At the conclusion of the construction of the pipeline, the permit holder shall provide copies of 'as built' surveys, drawings, geotechnical data, and materials testing results to the city's Planning Division.
- R. The permit holder shall notify the Commerce City Planning Division if and when any permanent discontinuation of the use of this pipeline for wastewater transmission takes place. The permit holder shall be required to furnish a mitigation plan for the pipeline at that time.

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Commented [AJ-C4]: Changed from lettered to numbered sub-bullets

Commented [AJ-C5]: Combined into one condition

Commented [AJ-C6]: Changed from lettered to numbered sub-bullets

Commented [AJ-C7]: Altered to match with IGA which allows trail closures with criteria for notice, signage, alternative access, etc.

Commented [AJ-C8]: Changed to match notification criteria in IGA for consistency.

Commented [AJ-C9]: Calendar added to notification requirement in order to match IGA, Interceptor changed to pipeline for consistency

Commented [AJ-C10]: Correct typo

Commented [AJ-C11]: Correct typo

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Attachments:

- Exhibit A: Property Owners and Impacted Properties
- Exhibit B: Commerce City Overview Map (Proposed Pipeline Route)
- Exhibit C: Applicant's Narrative and Application Materials
- Exhibit D: Neighborhood Meeting Notes and Materials
- Exhibit E: 95% Construction Drawings