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August 22, 2017

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**RE: Update on an I-25 Moves Metropolitan District Concept
Report to Smart Commute Metro North on the development of the I-25
Moves Metropolitan District**

Karen:

This memorandum provides an executive summary of a status report Icenogle Seaver Pogue, PC “ISP” submitted on September 21, 2016 (“the 2016 Report”), a copy of which is attached hereto. The 2016 Report is divided into two main chapters:

- Chapter A: Recapping the history presented in the 2016 Report:
 - Part 1: The commercial overlay metropolitan district concept
 - Part 2: Designing the process for developing an I-25 Moves District
 - Part 3: Developing an I-25 Moves District concept
- Chapter B: The future of an I-25 Moves district concept (Part 4)

Chapter A: Recapping the History Presented in the 2016 Report

Recap of Part 1 - The Commercial Overlay Metropolitan District Concept

Smart Commute Metro North (“SCMN”) commissioned an exploration of creating a dedicated revenue stream, separate from and additional to traditional municipal and county funding, to help enhance mobility, transportation, and community development in the Interstate 25 corridor from 70th Avenue to Highway 7. After considering various special-purpose entities, SCMN proceeded with investigating the possibility of a metropolitan district encompassing commercial property on either side of I-25, including property not presently within development-specific metropolitan districts and property within those existing districts which might be overlain with the I-25 Moves District.

The overlay district concept was ultimately developed (see Parts 2 and 3 of the 2016 Report) in the form of a “strawman” service plan (the “Strawman Service Plan”), to promote discussion by various stakeholders, including the municipalities and counties

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within the boundaries of which an I-25 Moves District might be established, the existing development-specific metropolitan districts which might be overlain, the taxpayers and business residents of an I-25 Moves District, and any coterminous urban renewal authority areas.

The Strawman Service Plan contemplated a property tax, which would yield modest initial funding, but was anticipated to grow over years and decades as the area, particularly adjacent to and north of State Highway 7 builds out, thus supplying a dedicated source to contribute to public infrastructure/services funding, in addition to the traditional sources of funding (e.g., CDOT, RTD, counties and municipalities, and various grants).

The Strawman Service Plan did not specify projects for its funding, as the eligible projects were contemplated to be selected and prioritized by the taxpayers, the existing metropolitan districts, and the counties and municipalities which would decide whether to authorize establishment of an I-25 Moves District. For demonstration purposes, an arbitrary corridor boundary was selected and its present and future revenues estimated based upon commercial assessed valuation assumptions.

Recap of Part 2: Designing the process for developing an I-25 Moves District

The nature of an I-25 Moves District, as described in Part 1 of the 2016 Report, required a process for developing information and data and for consultation with various stakeholders. That process was designed in the Part 2 effort, and then executed as reported in Part 3 of the 2016 Report.

Recap of Part 3: Developing an I-25 Moves District concept

Development of an I-25 Moves District concept was conducted in 2015 and the first half of 2016, and is detailed in Part 3 of the 2016 Report. That development effort led to the Strawman Service Plan, informed by the data gathered and the stakeholders who were consulted.

Chapter B: The Future of an I-25 Moves district concept

Because the I-25 Moves District development process has been conceptual, the pending discussion document, the Strawman Service Plan, is devoid of:

Boundaries and existing districts to be overlain;
Proposed property tax levy and bonding capacity, if desired; and
Projects to which the district might contribute.

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Conceptually, as indicated in the Strawman Service Plan, the requirements for establishment of an I-25 Moves District would be:

Approval by the governing body of each county or municipality in which the district might be organized;

Consent of each existing metropolitan district which might be overlain;

Petition by the owners of taxable property;

Governance by a directly-elected I-25 Moves District board of directors, comprising district taxpayers and any residents of the district;

I-25 Moves District organizational approval by the district's electors and TABOR approval of any tax or bonds; and

Either a specific list of projects or general agreement on the types of projects.

In summary, an I-25 Moves District would require consensus on each of the matters listed above by the public sector (each county and municipality in which the district is to be established) and the private sector interests (in both their taxpayer and existing metropolitan district capacities).

At the time of this memo, because consensus by the public sector on the merits of establishing the I-25 Moves District has not been reached, ISP recommends shelving the 2016 Report. It may be revived in the future if all stakeholders at some point reach consensus on a number of aspects, including geographic scope and projects to be supported.

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Report to Smart Commute Metro North on development of the I-25 Moves Metropolitan District

Submitted by Icenogle Seaver Pogue, P.C.

September 21, 2016

This summary Report is presented in four parts:

- The concept of a metropolitan district, organized pursuant to Title 32 of the Colorado Revised Statutes, for the purpose of advancing and enhancing mobility, transportation, and community development in the north Interstate 25 corridor of the Denver metropolitan area.
- Designing the process for development of such a metropolitan district.
- Development of a metropolitan district, including conceptual or “strawman” documents for the I-25 Moves Metropolitan District, i.e., a draft Service Plan, a Conceptual Financial Model demonstrating feasibility, and discussion points for stakeholders.
- Next steps for organizing and activating the I-25 Moves Metropolitan District.

Additional deliverables attached to this Report:

- Draft Service Plan (Appendix A)
- Conceptual Financial Model (Appendix B)

Part 1: The concept of a commercial overlay metropolitan district

Background

Inquiry into the nature and feasibility of organizing a district, focused on present and future commercial development in a corridor along Interstate 25 from approximately 70th Avenue to Highway 7 (the “District Corridor”) in order to produce a revenue stream additional to revenues of existing local governments, was formally initiated in late 2014. Smart Commute Metro North (“SCMN”) determined to explore such an entity for contribution to anticipated efforts to enhance mobility, transportation, and community development in the District Corridor, with the specifics of such an entity to be determined by the input of public and private sector stakeholders.

Noting the success of a commercial property taxing district in the south Interstate 25 corridor, from approximately Interstate 225 to northern Douglas County, SCMN issued a request for proposals for counsel to advise on legal issues associated with establishment of a revenue-producing entity in the District Corridor

and to assist in assessing the efficacy and feasibility of such an entity. After securing Icenogle Seaver Pogue P.C. (“ISP”) as consulting counsel at the end of 2014, in 2015 SCMN initiated the process of better understanding the features of the south Interstate 25 entity – the Southeast Public Improvement Metropolitan District (“SPIMD”) – and investigating adaption of the SPIMD concept to the north Interstate 25 corridor.

SCMN and ISP ultimately developed a proposal for an **I-25 Moves Metropolitan District (“I-25 Moves”)**. **I-25 Moves** is proposed to be organized pursuant to Title 32 of the Colorado Revised Statutes. The creation of **I-25 Moves** will require the approval of municipalities and counties in which **I-25 Moves** would be organized, the consent of existing overlapping special districts which provide the same services as would **I-25 Moves**, and ultimately the approval of the commercial property taxpayers within the boundaries of **I-25 Moves**.

The I-25 Moves Concept

As presently proposed, **I-25 Moves** will be a Colorado special district with such powers as allowed metropolitan districts pursuant to Title 32 of the Colorado Revised Statutes, but subject to such limitations as (i) the district’s organizers propose, (ii) overlapping special districts properly require to consent to **I-25 Moves** providing redundant types of service, and (iii) the municipalities and counties in which the district is to be located impose in the district’s foundational document, its service plan.

The anticipated scope of **I-25 Moves**, which scope will ultimately depend on the determinations of the public and private stakeholders, has been posited thusly: To provide needed capital and operational resources, beyond those provided by existing local, regional, state, and federal governments, to support improvements in the road and transit systems, including related community aesthetic, cultural, and recreational elements, serving the northern Denver metropolitan area. While **I-25 Moves** potentially could collect user fees for its improvements and services, it is anticipated that its revenues for contributing to public works and services would derive from an ad valorem property tax, levied on property included in the district, all of which is anticipated to be commercial and none of which need be contiguous.

I-25 Moves is proposed to provide contribution to regional public improvements. Because existing and future commercial development nodes have and are likely to have metropolitan districts to fund local infrastructure, **I-25 Moves** is expected to “overlay” those districts, with the consent of those special districts already in existence and offering the same type of services. **I-25 Moves**’ tax levy would be separate from, and of no impact to, the revenues of those local development-specific districts.

The **I-25 Moves** concept is fleshed out in its draft service plan, which is Appendix A hereto. This is intended to be a “strawman” service plan, to facilitate discussion and decisions on its key elements, including its boundaries, taxing authority limitation, ability to bond, and so forth. It is important to note that the draft service plan is built upon numerous arbitrary assumptions, including the service and taxing areas of the district when organized. These may be changed as the metropolitan district concept is advanced and discussed.

It is also important to note that, as with SPIMD, it will likely take years and even decades for **I-25 Moves** to mature and reach its full potential.

Part 2: Designing the process for developing I-25 Moves

SCMN tasked ISP with assisting in the design of a process for developing what ultimately may become **I-25 Moves** in a fashion and to a degree that the concept might be meaningfully presented to the North Area Transportation Alliance, the municipalities and counties in which the district might be organized, and the commercial interests which would need to consider whether to petition for organization of **I-25 Moves**, elect its governing board of directors, and levy and pay the property tax for its funding.

The design produced may be summarized as follows:

- ISP introductory briefing to SCMN regarding regional funding and governance entities
- SCMN identification of anticipated goals and purposes of a regional entity
- ISP recommendation of regional entities suitable for desired purposes
- SCMN selection of regional entity
- ISP preparation of a very preliminary organic, control document for selected entity (service plan if metropolitan district; intergovernmental agreement if an association of districts)
- ISP discussion with SCMN of preliminary document and selection of entity features
- SCMN roll out of concept with stakeholders, including commercial taxpayers
- SCMN definition of initial boundary of and participants in the entity
- ISP preparation of control document in “strawman” form
- SCMN solicitation of comments and criticisms to “strawman” control document
- ISP/SCMN obtaining of input on projected assessed value and potential revenue stream from property within boundary
- ISP/SCMN assessment of feasibility of entity
- Decision on whether to proceed from SCMN, local governments, other districts, taxpayers

The foregoing process was approved by SCMN, and ISP was tasked to embark upon the process, in cooperation with SCMN.

Part 3: Developing the I-25 Moves concept

In 2015 and continuing into 2016, SCMN moved forward with development of the concept for **I-25 Moves**, employing the design process described in Part 2. At SCMN’s direction and with input from others as described hereinafter, ISP was tasked with and performed the following activities.

January, 2015 Kick-off meetings with SCMN to discuss available funding entities and their primary features and to elicit goals for effort and entity. Recommend metropolitan district and basing initial concept on SPIMD

February, 2015 Preliminary design of **I-25 Moves** control document, its service plan. Discussion of major elements with SCMN, prepare information for private sector stakeholders

March, 2015 Discussions with SCMN regarding **I-25 Moves** features for further development of service plan

- April, 2015* Develop materials for public/private stakeholder discussions; participate in stakeholder meeting hosted by SCMN
- June, 2015* Research and prepare advice on requirements of approving public entities
- Aug-Sept, 2015* Contemplate and provide for expandability of **I-25 Moves** to include additional local jurisdictions and service area boundaries
- Oct-Nov, 2015* Complete “strawman” service plan, incorporating decisions of SCMN, for review, comment, and criticism of stakeholders
- Dec, 2015* Refinement of district concept for coordination, cooperation with URAs in light of legislative changes to URA governance law
- Jan, 2016* Solicit pro bono financial model of **I-25 Moves** from investment banking firm (RBC), based upon arbitrary assumptions and projections
- Feb-Mar, 2016* Incorporate financial capability assessment into district concept, via financial model
- Summer, 2016* Confirm legal and, based upon model, financial feasibility of **I-25 Moves**

Part 4: Next steps if I-25 Moves is to be created

As with any metropolitan district, **I-25 Moves** will require the following initiation, consent, and approvals for its creation and activation:

- Initiation of organization by district electors, which will be qualified commercial taxpayers, primarily developers and owners of developable properties.
- Consent to overlap by existing special districts providing the same services.
- Approval of service plan by each municipality or county in which the district is to be organized.
- Processing of organization through the district court.
- Organizational and TABOR vote by electors.
- Activation and imposition of tax, perhaps issuance of bonds, by district’s board of directors.

Legally, the establishment of **I-25 Moves** and activation through an approved service plan (a “strawman” draft of which is Appendix A hereto) is feasible. While an atypical application of a Title 32 metropolitan district, ISP sees no legal impediment to that application, and there is practical precedent to be found in SPIMD. As a financial matter, the RBC financial model (also a “strawman” document which is Appendix B hereto) demonstrates that, based on an assumed boundary and projected growth in value, the district is feasible. The remaining aspect of feasibility is, of course, the political acceptability of **I-25 Moves** to the public and private stakeholders.

The next steps, should the public and private stakeholders wish to proceed, are essentially outlined in the bullet points at the top of this Part 4, supplemented by some practical steps:

- Discussion with public (municipalities and counties) and private (commercial taxpayers) stakeholders to confirm interest in and consensus on the key elements of **I-25 Moves**.
- Refinement and completion of the district's service plan, with appropriate appendices indicating boundary, projected finances, power and limitations.
- Preparation of a detailed, step-by-step outline of all action necessary under state law and local regulation for organizing a metropolitan district.
- Submission by the private stakeholders to affected municipalities and counties of a proposed service plan.
- Submission of proposed service plan to existing special districts with overlapping boundaries and services for consent.
- Petition by district organizers to the district court to set an election for establishing the district.
- Identification of directors proposed for the initial district board.
- Preparation of ballot questions and arrangements for organizational and TABOR election.
- Organizational and TABOR election, with the next available combined date therefor being November, 2017.
- Activation of the district immediately thereafter.