

**Meeting Agenda of the
TRANSPORTATION ADVISORY COMMISSION
August 11, 2016
8:30 a.m.**

Community Room of the Pueblo Municipal Justice Center, 200 South Main Street
Agenda items marked with * indicate additional materials are included in the packet.

**Individuals Requiring Special Accommodations Should Notify the City MPO's
Office (719) 553-2244 by Noon on the Friday Preceding the Meeting.**

1. Call Meeting to Order

2. Introductions and Public Comments (non-agenda items only).

3. Approval of Minutes*
July 14, 2016

Action Requested: Approve/Disapprove/Modify

4. CDOT Region II TIP/STIP Policy Agenda Item(s)*

There are no Policy TIP Amendment Notification for August.

5. CDOT Region II TIP/STIP Administration Agenda Item(s)

CDOT Region II has Notification of Five (5) Administrative Amendments of Roll Forward Project Funding to the PACOG Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) in the MPO/TPR area.

Notification: No Action Required

Project Name: I-25 Through Pueblo

STIP Number: SPB3865

Project Location and Description: **Ilex RAMP Project**

Federal Program Funds: \$ **827,899**

State Matching Funds: \$ **172,100**

Local Matching Funds: \$

Other Project Funds: \$

TOTAL PROJECT FUND AMENDMENT: \$999,999

6. CDOT Updates

7. West Pueblo Connector Update of Alternatives*

8. Staff Reports:

- **Pueblo Area Wide Transit Feasibility Study**
- **Critical Freight Corridor Designations***
- **Transit/School Regional Bus Transportation***

9. Items from TAC Members or scheduling of future agenda items

10. Adjourn at or before 10:30 am.

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**Individuals Requiring Special Accommodations Should Notify the City MPO's
Office (719) 553-2244 by Noon on the Friday Preceding the Meeting.**

1. Call Meeting to Order

Chairman: Scott Hobson

Time of Call: 8:37 a.m.

MPO Members Present: Scott Hobson, John Adams, Hannah Haurert

*TAC Members Present: Alf Randall, Dan Centa, Darrin Tangeman, Don Bruestle, Joan Armstrong,
Pepper Whittlef, Wendy Pettit*

CAC Members Present: Kristin Castor, Alan Nelms

Others Present: Robert Frei

2. Introductions and Public Comments (non-agenda items only).

No introductions or public comments were made.

3. Approval of Minutes*

Motion to Approve: Don Bruestle

Second: Alf Randall

Unanimous

4. CDOT Region II TIP/STIP Policy Agenda Item(s)*

There are no Policy TIP Amendment Notification for July

5. CDOT Region II TIP/STIP Administration Agenda Item(s)*

CDOT Region II has Notification of Five (5) Administrative Amendments of Roll Forward Project Funding to the PACOG Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) in the MPO/TPR area. Additional Information is Available in the Attached Letter and Spreadsheet.

Project Name: Greenhorn Bridge

STIP Number: SR250710.017

Project Location and Description: **Greenhorn Bridge**

Federal Program Funds: \$ **1,333,350**

State Matching Funds: \$ **0**

Local Matching Funds: \$

Other Project Funds: \$ **333,340**

TOTAL PROJECT FUND AMENDMENT: \$1,666,700

Project Name: Arkansas River Trail – Phase 4

STIP Number: SR250790.058

Project Location and Description: **Arkansas River Trail – Phase 4**

Federal Program Funds: \$ **616,494**

State Matching Funds: \$

Local Matching Funds: \$

Other Project Funds: \$ **154,124**

TOTAL PROJECT FUND AMENDMENT: \$770,618

Project Name: Pueblo West – Trail

STIP Number: SR250790.061

Project Location and Description: **Pueblo West – Trail
Spaulding Ave – W McCulloch Blvd**

Federal Program Funds: \$ **457,107**

State Matching Funds: \$

Local Matching Funds: \$

Other Project Funds: \$ **114,277**

TOTAL PROJECT FUND AMENDMENT: \$571,384

Project Name: Pueblo West – Trail

STIP Number: SR250790.067

Project Location and Description: **Pueblo West – Trail
Industrial Blvd North – Platteville Blvd**

Federal Program Funds: \$ **400,000**

State Matching Funds: \$

Local Matching Funds: \$ **100,000**

Other Project Funds: \$

TOTAL PROJECT FUND AMENDMENT: \$500,000

Project Name: West 11th St Bridge Replacement

STIP Number:

Project Location and Description: **West 11th St Bridge Replacement**

Federal Program Funds: \$ **4,443,500**

State Matching Funds: \$

Local Matching Funds: \$ **2,516,620**

Other Project Funds: \$

TOTAL PROJECT FUND AMENDMENT: \$6,960,120

6. CDOT Updates*

- **Robert Frei – Environmental Manager - CDOT 10 Year Development Plan**

Robert Frei said that CDOT is trying to reduce the spending from \$8.5b to \$2.5b which \$477m will allocate for Region 2. In the packet, he is wanting to know which Plan would work better; Plan A or Plan B. He said that the two plans differ from each other in a sense that 1st St & 29th St along I-25 would not be top priority and be replaced by US 50 W. There are \$25m identified that is for the US 50 W project and another \$25m for a tier 2 project. Dan Centa asked if the Plan B \$130m and \$25m is included in the \$477m. Robert said that they both are included. It has been identified that \$50m is for tier 1 and tier 2 project. 29th St section of I-25 moved to the tier 2 project. Plan B, City Center to 13th \$30m is the match. Rob said that all projects are funded by the \$477m. Robert said Plan B was developed for PACOG specifically. Robert needs to know by August 12, 2016. He is wanting input on which plan would better suit TAC and PACOG in the future as a priority. Tier 1 accounts for 16% for Pueblo projects and over 40% in tier 2. Tier 1 would get an additional \$50m. Dan Centa asked about funding for 50 E for Pueblo, Robert said that is included. Dan wanted to know where that project would start and that is what Robert is wanting to know. There are a few differences in Plan 1 & 2 is that I-25: 1st St to 13th St is top priority in Plan A and I-25: 29th

St is top priority in Plan B. A few other plans that differ in priority is I-25: 1st St to 13th St and US 287. Scott Hobson said that we want to put that as our top priority even though the money may not be there right now. If money does come in, the project will be ready to go. Robert wants to update it annually or every other year. Wendy said that we should prioritize. Scott Hobson asked if the \$2m is for the Bustang, Robert said that is a completely separate plan and it shouldn't have changed. Wendy Pettit said that if money comes in, the projects will be advanced.

Scott Hobson said that we need to look at adding 4 more years to our plan, this will be a 4 year TIP plus a 10 year development plan. Our plan is to match up with CDOT plans.

Scott Hobson asked when TAC/PACOG would need a recommendation. Robert Frei said that he needs a decision by August or September. Pepper Whittlef made a motion on Plan B, Don Bruestle and Kristin Castor 2nd the motion.

Scott Hobson informed us that he wants to keep aligned with CDOT's priorities if our plan is different. Darrin Tangeman asked if we broke our plan into the 4 year and 6 year vs 10 year plan, which one would be advantageous. Scott Hobson said that being aligned with CDOT's plan would put us in a better position. He said that it is helpful to have one list to address the projects.

7. Review Draft 2017 UPWP Scope of Work*

John Adams informed everyone that the changes in CDOT's consolidation plan has to be approved by PACOG in August/September. The CPG contracts that are approved by CDOT will take effect on October 1, 2016 and then the 2nd draft will be updated. There were some discussions in the last meeting, those were incorporated into the document. We are not going to do full pavement management and come up with a rating system with fair, good, or poor. This will also be for the bridge maintenance. This will be bringing in the existing conditions. There hasn't been any major changes from the previous year. We will develop the hard core within the next month and bring a document to share. Scott Hobson said there are a few changes in the Transit study. There is a project in 1643 that will be the Transit Accessibility Plan, this will be the ADA access to and from bus stop areas where we are deficient and where locations need to be approved. This is nationwide on MPO's and the next area for compliance. Pepper Whittlef was wondering if the consultant will do design plans or recommendations for stops. Scott said they will tell us where we are compliant and not. Pepper is wondering if it will be pathways to the bus stop. John Adams said it will look at that too. Scott said that \$120k funding will be spent down on this project. Dan Centa asked about the total. John said it is in the packet on page 9 under the Scope of Work part. Scott Hobson said that we already have a 2 year UPWP that is adopted for FY 16 and FY 17. Funding for FY 16 is \$825,672 and FY 17 is \$662,997. Pepper asked if Transit can apply for Capitol Project Account. Kristin Castor said yes and since Earl Wilkinson has completed the ADA Coordinator Training, there are more grants that can be applied for that program. She said that Citilift is running beyond capacity because people can't get to the bus stop. The only way to get Citilift in compliance is to improve the bus system. Scott said that the Federal Consolidating Planning Grant Funds are from Federal Highway Administration Planning Funds and Federal Transit Administration Planning Funds. Our grant is \$350k a year and \$288k federal and \$60k is match by City and County Funds. About \$90k of those funds are Transit Dollars.

Darrin Tangeman wants to know how they will determine what they are going to study and if that includes the students. Kristin Castor said that they have to consider that because the students are the major population on the buses. Scott said that will be factored in the study. He said the Scope of Work will be endorsed by PACOG to be presented to CDOT.

Wendy Pettit asked if Michael Snow gave us feedback. Scott said that he has not but we have been told that we need more participation in the Public Participation Plan. Wendy will find out if we need

any changes from Michael. Scott said that we may need to do some adjustments in the plan in September that can be carried into 2017.

Kristin Castor mentioned about the meeting times and hours should be different so that there can be a different population each time. This would need to be worked around Pueblo Transit hours. Scott said that we need to look and get public input on which times would be best for them. Don Bruestle motioned the Scope of Work to PACOG, Kristin Castor 2nd the motion. The Transit Study will be included in the Scope of Work. Kristin asked if the Transit Study would team up with other companies like the Airport Cab. Scott said that our Plan looks at how it connects but does not look at their operations, it does look at the connectivity to the bus system.

8. US 50 East Draft Tier 1 Environmental Impact Statement*

Robert Frei said that the tier 1 EIS was back in June and there is a comment period through July 29th. There were 4 public hearings about the corridor from Pueblo to the Kansas State Line. There are safety improvements and agriculture conflict. US 50 will be the main highway that will impact the smaller towns. A 4 lane expressway from Pueblo to Kansas is preferred alternative and each town will have a reliever route. This is a high level document PL and those around town will have another document at an EA or EIS level before it can move forward. Improvements between towns can be done with a CAD X (Categorical Exclusion) with less controversy. Las Animas and Rocky Ford concerns about their land being severed and about the socioeconomic for going around the town. There are no designs for that, it will be looked at in the tier 2 level when funds are available. There are three alternatives included in the packet, there is a north route on Hwy 47 that goes around the northern part of Airport. Dan Centa would like Hwy 96 and Hwy 50 to be separate routes. Robert said that putting the 4 lanes would wipe out the smaller towns. Alf Randall is concerned about the operational conservations. Robert said that all 3 meet the service and need for improvement for safety and movement. Wendy Pettit said that if it is not picked up by another process then it will be torn up. Dan Centa said that Hwy 96 & Hwy 50 would be both destinations. Robert said that he would recommend to make a comment about the alternatives. Alternative 2, CAD x and Alt 1 & 2, would be considered EA. Dan said not to dismiss operational impacts. Robert said that Dan would be able to help with those. Scott asked about the timeline. Robert said July 29th but it was requested to be extended, if so, it will be extended another two weeks after. Scott asked when the extension would be. Robert said August 12th. Scott said we can make recommendations or comments at our next TAC meeting on August 11th. Alf Randall was concerned about the least amount of impact for the Airport. Robert said that they didn't know. Dan Centa said that we have to be careful about that because of impact of the plane runway. Scott said that we can check with the Airport and see if they have a copy of the EIS. Don Bruestle wants Don Vigil comments to be included.

Scott said that in the future, we would need recommendations to add miles to the freight route. Hwy 50 would be considered a freight route. CDOT has 80 miles urbanized fixed route. CDOT will make recommendations and review them with us. Wendy Pettit said that meeting would start with Ajin.

9. West Pueblo Connector Review Update Alternatives*

Scott Hobson said that there were a few suggestions to modify the alternatives, at least 2 of the routes have had adjustments. The alternative 1 would be incorporated with the 18th St Bridge, alternative 2 would be crossing over the railroad around 15th St and then alternative 3 would be crossing over the railroad around 11th St. The maps for the alternatives are in the packet. Scott said that the meeting with the State Hospital Staff went well. There is a level 5 and level 3 facility located inside the Hospital, a few alternatives pass right by the level 5 facility. Don Bruestle asked about the two roadways that join or split off. Scott said that it's one way or another. These alternatives options have been provided to Department of Corrections. There have been no comments from DOC. He said that the alternatives that are close to the Hospital were the least favorable. All the alignments will be included in the study, and the comments will be passed on.

Kristin Castor concerns were about the residents' that are not in the locked ward, and that it is quite easy to escape. Any of the alternatives that utilizes the 18th St Bridge that is linked to 17th St wouldn't have to destroy the homes and instead move the intersection to the east on State Hospital property, it does not have future building plans. We are going to wait on public review until we get comments from DOC and State Hospital. Then we would look at scheduling public meetings for these alternatives. Kristin Castor would like an overall map with labeled streets. Alf Randall said that the turn radius could be tightened to lessen the roundabout to less impact the neighbors. Scott said that comment has been made by the Stakeholders. Dan Centa said that there will be another Stakeholder meeting. Kristin Castor was concerned about asking the people who live at the Hospital. Scott said that we can share that with the Hospital and DOC. He said that if everyone wants to provide their boards to get their input. Once we get DOC comments, Matrix will have another Stakeholder meeting. Kristin Castor said that she would think Friendly Harbor would be another option for outreach. Scott said that another part of the process would be the Fire Department response time. There is a response time of 8 seconds now but a bridge over 11th St would cut down that time to 6 seconds.

10. Staff Reports:

- **Pueblo Area Wide Transit Feasibility Study**

Last Thursday was the kickoff meeting with Nelson/Nygaard, they went over the Scope of Work. Dan Centa asked what was meant by the Area Wide in the study. Scott said that it is the existing Transit system, fixed route, and ability to provide connecting routes from Pueblo West, St Charles, Industrial Park and St Charles area. He said that we are looking to expand the Scope of Work for a circular route in Pueblo West, it would be an additional work item and cost. PACOG would need to approve it, and will be paid for. Wendy Pettit asked if the contract would need to be redone or a change order. Scott said that it would be a minor change to the UPWP.

Interviews were completed with the staff and the bus drivers. There will be a group of people to ride the Transit system, develop a survey and develop a couple of meetings with Transit riders at the Transit Station. Our most successful meeting was at the Transit Station. It was discussed of how students would ride the bus system since Pueblo City Schools let you choose the school you would like to attend. Ridership study would include the time now and when school starts for two different numbers. Kristin Castor explained that Brenda gets more federal funding with more ridership. The consultants think that there should be a better link with the University and PCC. There can be adjustments for better options and increase ridership. Kristin Castor pointed out that the University subsidized the routes. Scott said that there were a subsidy the University provided and ridership was higher, and that it will be looked at. After the analysis, they will come back to TAC for a report. There is talk about relocating the Transit building and Nelson/Nygaard would do another analysis for future development.

- **Discussion of scheduling of TAC meetings**

Scott Hobson said he would not recommend to change the time, and it has been decided not to.

11. Items from TAC Members or scheduling of future agenda items

- **City/School Regional Bus Transportation**

Scott Hobson said that we would need further information for the next TAC meeting.

12. Adjournment

Chairman Scott Hobson adjourned the meeting at 10:39 a.m.



July 14, 2016

Pepper Whittlef
Traffic Engineer
City of Pueblo, Colorado
350 Alan Hamel Avenue
Pueblo, CO 81003

RE: Roadway Realignment Comments

Pepper,

Thank you for meeting with my staff and providing opportunity to review the eight West Pueblo Connector alternative alignment drawings. As discussed, we have provided a full set to the Department of Corrections to obtain their input regarding the aforementioned drawings. Their comments are noted separately below.

The Division of Facilities Management has provided comments by Alternative Plan number as follows:

Alternative A-1

- Generally this alternative plan is viable.
- New round-a-bout at 17th and Hood St will provide better traffic control than existing intersection.
- If 17th St between Hood and Francisco is to be four-lane traffic, some form of sky-bridge or controlled cross-walk will be required to permit patients to cross 17th street.
- May require state land easements at 17th and Hood to accommodate new round-a-bout diameter
- Depending on traffic volume an additional round-a-bout may be needed at 13th and Francisco intersection. Many of the employees working on the southern portion of the campus, enter and leave along the 13th street campus entrance.

Alternative A-2

- Generally this alternative plan is not preferred.
- Appears to lack traffic control at 17th and Hood St intersection.
- With no traffic control point at 17th and Hood St, vehicle speeding could be a major problem.
- Same applicable comments as noted in Alternative A-1.

Alternative A-3

- Generally this alternative plan is not preferred.
- Appears to lack traffic control at 17th and Hood St intersection.
- With no traffic control point at 17th and Hood St, vehicle speeding could be a major



- problem.
- Same applicable comments as noted in Alternative A-1.

Alternative A-4

- Generally this alternative plan is not preferred
- Proposed new route along Hood St to the south will pose major safety and security issues to the San Carlos Correctional Facility (SCCF). This facility is a maximum security prison.
- The proposed route directly crosses the Division of Facilities Management (DFM) buildings and surface operations.
- Proposed route places new road too close the campus Central Heat Plant located directly east of the DFM facility building.
- Land easements through the south west section of the campus will be extremely complex.
- Proposed roadway extending from existing state property line (NE of SCCF) to south property line will cross extensive campus infrastructure. To include water mains, sewer systems and storm water detention systems.
- Excessive traffic within and along campus buildings is not conducive for patient, staff and visitor safety.
- Noise issues will be concerning to occupants, clients and inmates.

Alternative B-1

- Generally this alternative plan is not preferred
- Proposed new route north of San Carlos Correctional Facility (SCCF) extending east will pose major safety and security issues to SCCF and the Pueblo Youth Service facility located south of 17th street and directly north of proposed road. Additionally the Youthful Offended System (YOS) is currently constructing a new facility directly west of their location and directly east of proposed new road. Introduction of contraband and public interference will pose safety and security management issues.
- The proposed route directly crosses the secure perimeter of building 20 which is a usable jail type facility.
- Proposed route places new road too close the campus central warehouse operations located north of proposed roadway.
- Land easements through the central portion of the campus will be extremely complex.
- Proposed roadway extending from existing state property line (NE of SCCF) to Francisco property line will cross extensive campus infrastructure. To include water mains, sewer systems and storm water detention systems and tunnel infrastructure.
- Excessive traffic within and along campus buildings is not conducive for patient, staff and visitor safety.
- Noise issues will be concerning to occupants, clients and inmates.

Alternative B-2

- Generally this alternative plan is not preferred
- Proposed route paralleling property line to west of SCCF is too close to exercise safety and security measures for a maximum security prison. Introduction of contraband and ability to aide in escapes is dramatically increased.
- Proposed route directly impacts existing storm water detention sites south of SCCF as well as new detention pond being installed as part of the YOS building addition.
- Land easements through the southern portion of the campus will be extremely complex.
- Proposed roadway will cross extensive campus water main infrastructure.



Alternative C-1

- Generally this alternative plan is not preferred
- Proposed road would directly impact existing fleet operations to include fueling stations and underground fuel storage site. All would require relocation however there is not an existing fleet site on the south grounds that would support our operations.
- Land easements through the southern portion of the campus will be extremely complex.
- Proposed roadway will cross extensive campus water main infrastructure.
- Proposed new D-street connection round-a-bout will encroach on existing storage areas utilized for grounds operations. Also round-a-bout and road are too close to existing campus food products warehouse located north of proposed new round-a-bout.
- Proposed route would eliminate reinstating railroad spur to facility coal delivery to Central Heat Plant.
- D-street connection round-a-bout cannot encroach on campus area due to possible solar farm placement

Alternative C-2

- Generally this alternative plan is viable.
- D-street connection round-a-bout cannot encroach on campus area due to possible solar farm placement

Department of Corrections Comments:

- Concurs with Alternative A-1 and C-2.
- Would strongly oppose any roadway adjacent to the San Carlos Correctional Facility perimeter.

The Division of Facilities Management would welcome a meeting to review any of the above comments and associated pro's and con's. Please contact myself or our Southern District Facility Manager, Brian Caruso to arrange a meeting.

Sincerely,

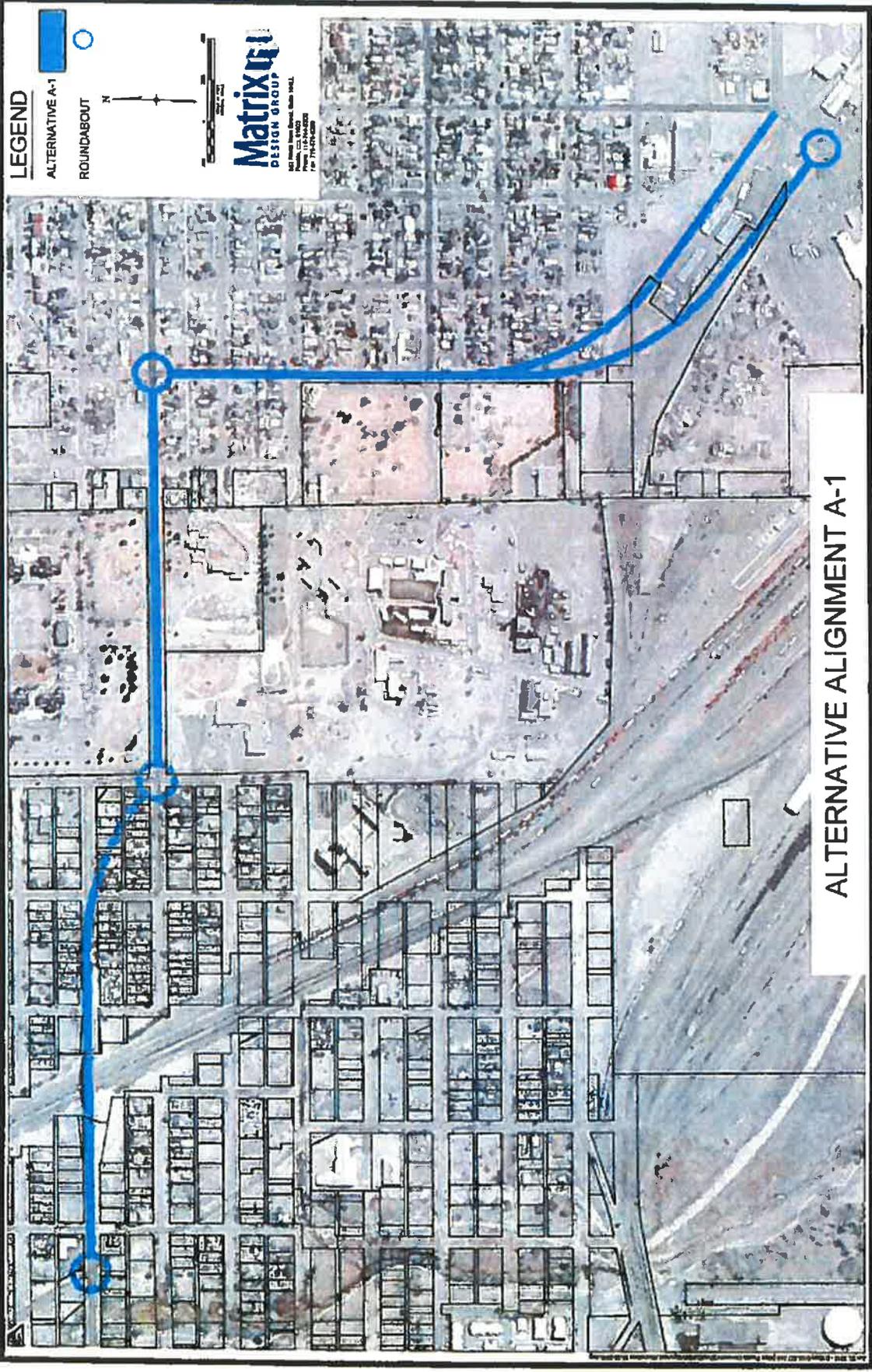


Bradford Membel

Division Director

Division of Facilities Management





LEGEND

ALTERNATIVE A-1

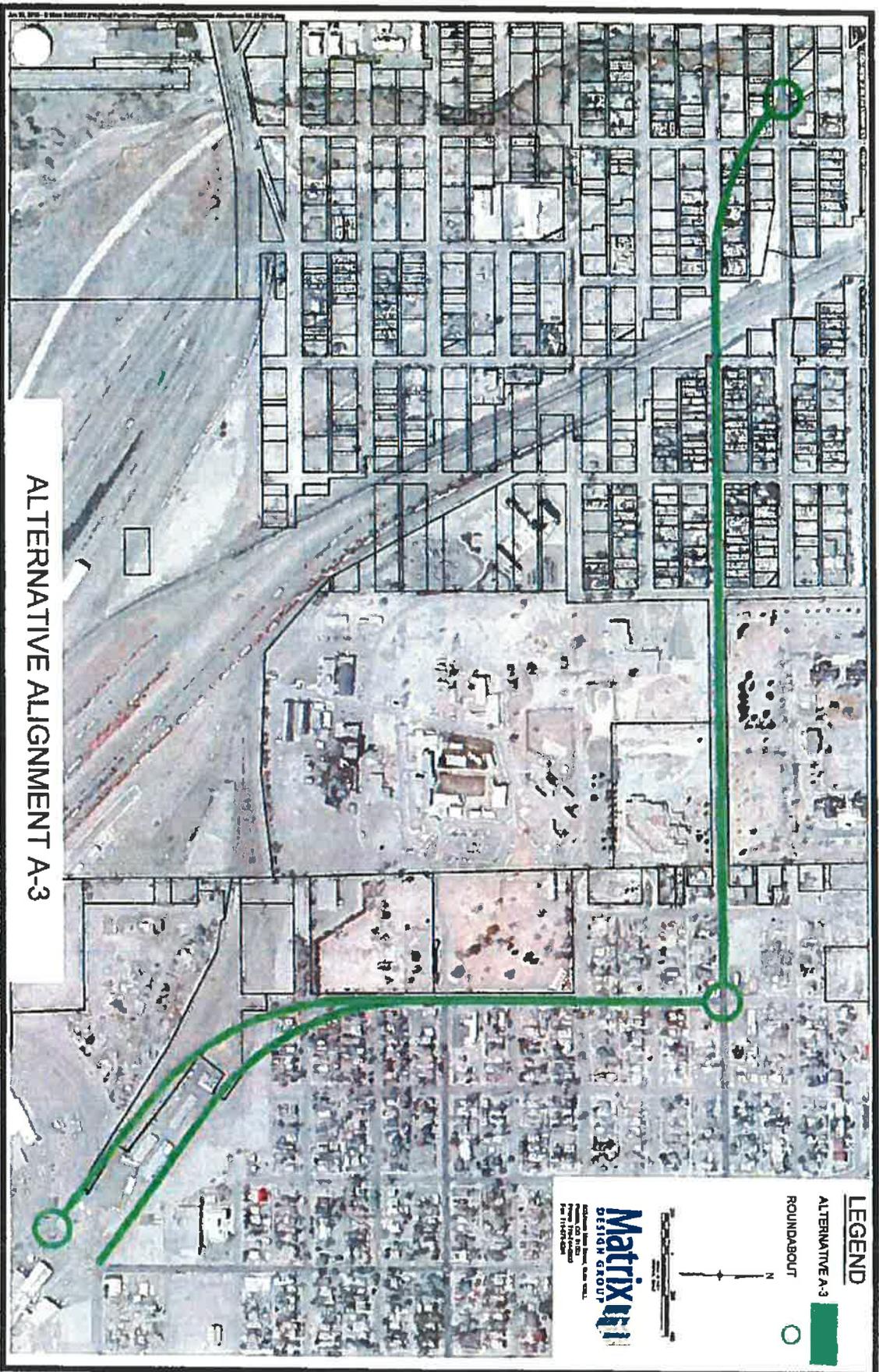
ROUNDABOUT

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ALTERNATIVE ALIGNMENT A-1



ALTERNATIVE ALIGNMENT A-3

LEGEND

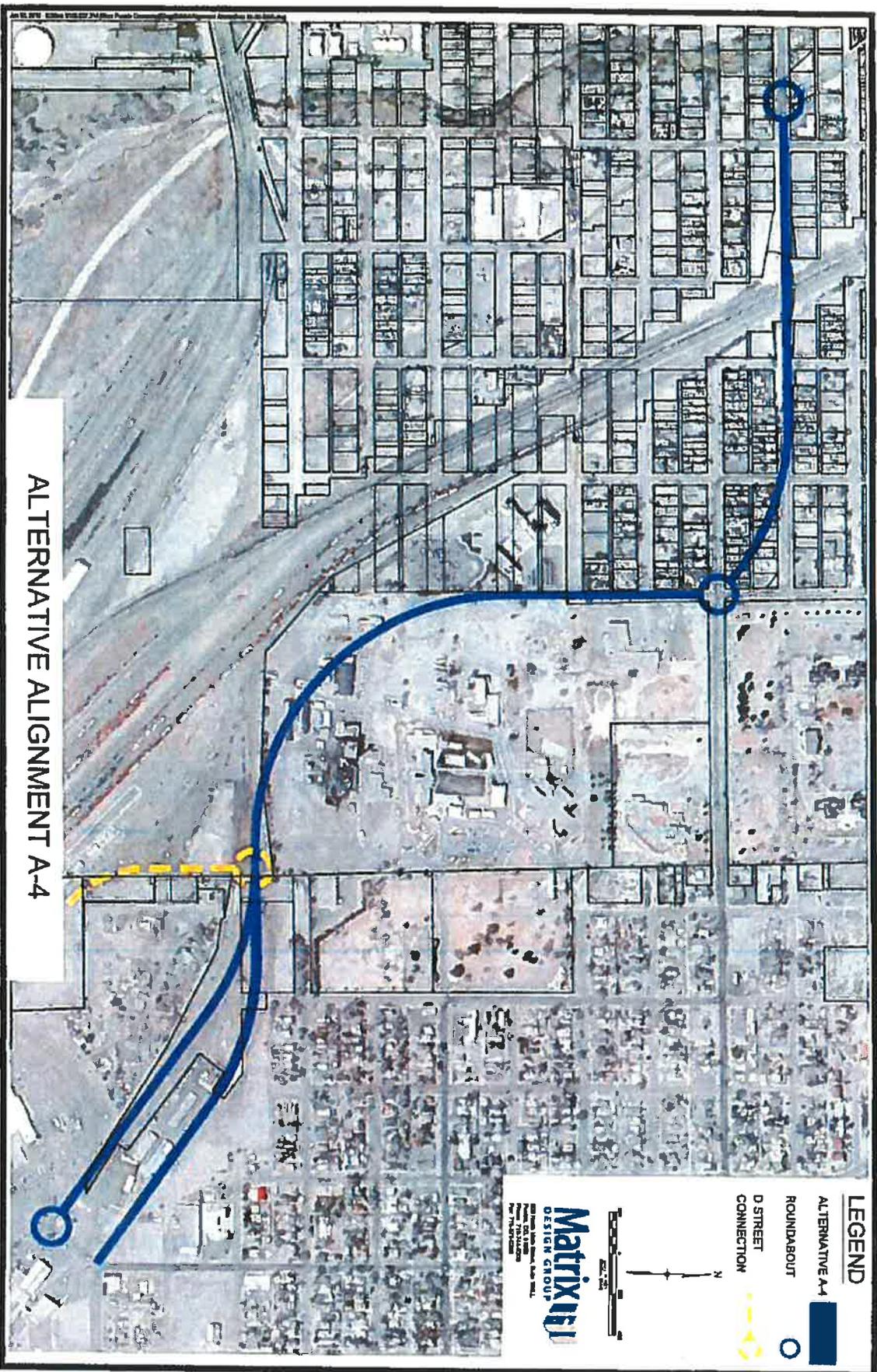
ALTERNATIVE A-3

ROUNDABOUT



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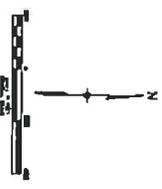
ALTERNATIVE ALIGNMENT A-4

LEGEND

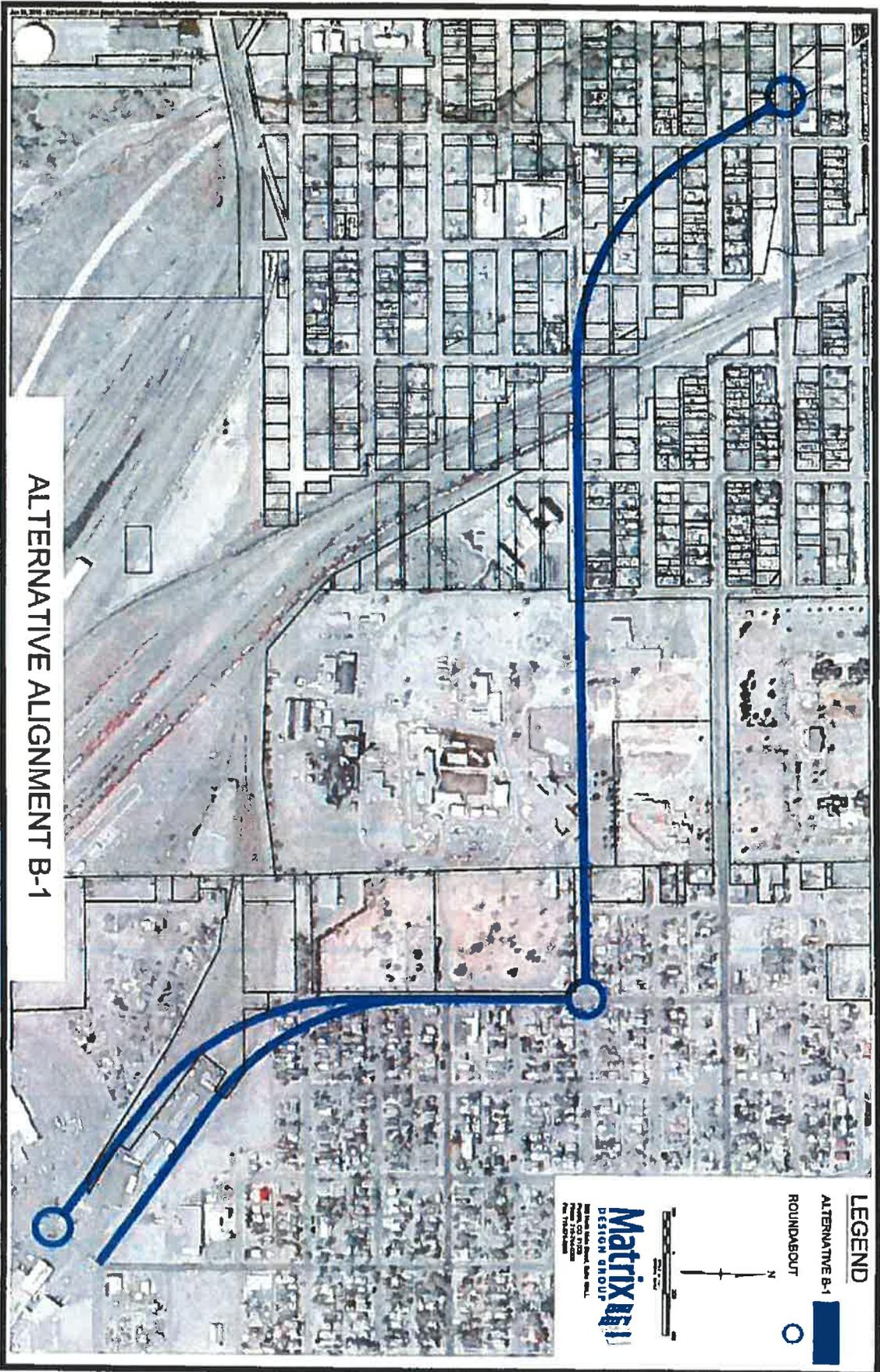
ALTERNATIVE A-4

ROUNDABOUT

D STREET CONNECTION



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ALTERNATIVE ALIGNMENT B-1

LEGEND

ALTERNATIVE B-1

ROUNDABOUT

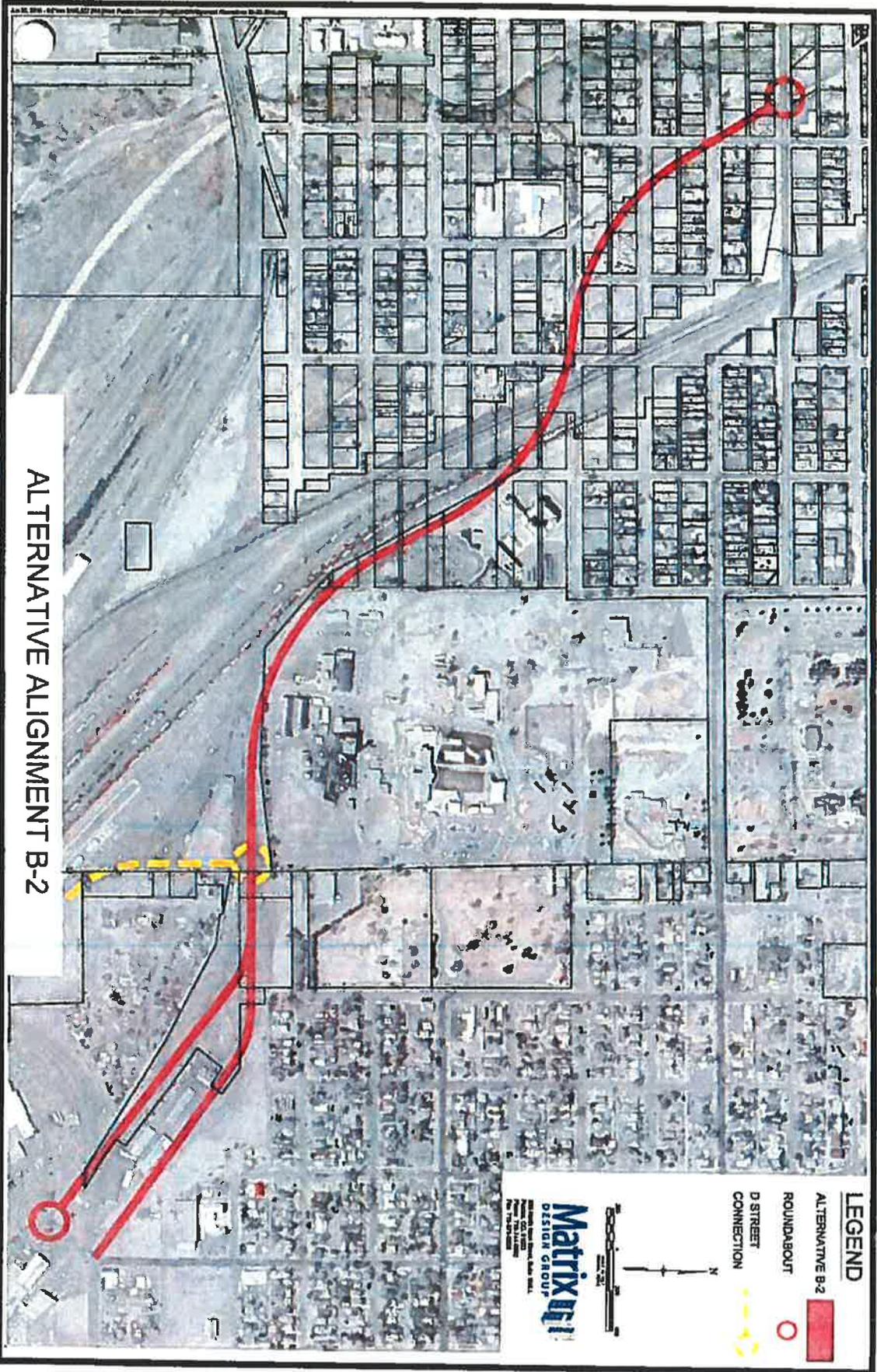


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ALTERNATIVE ALIGNMENT B-2

LEGEND

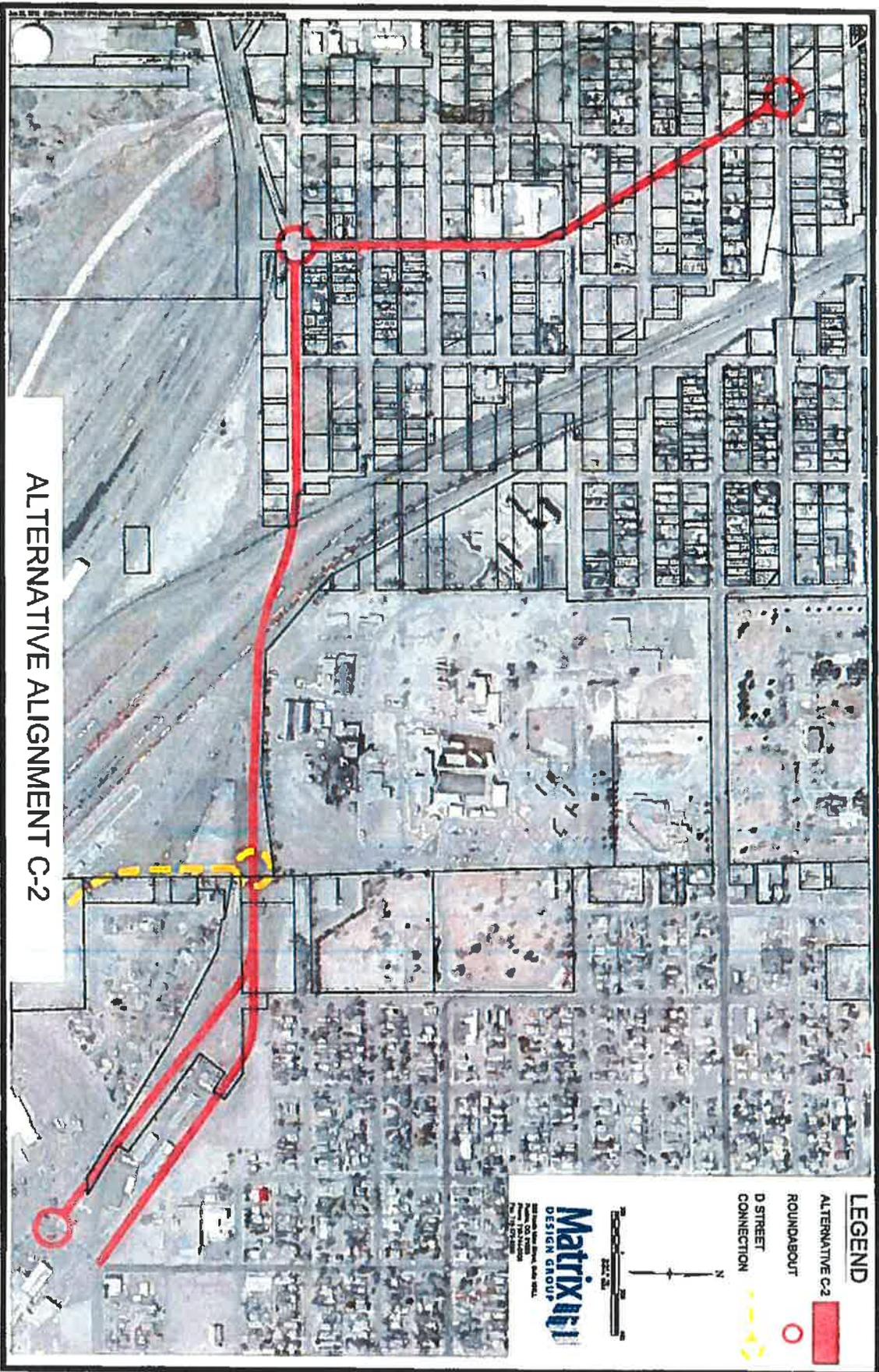
ALTERNATIVE B-2

ROUNDABOUT

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ALTERNATIVE ALIGNMENT C-2



National Highway Freight Network

The Fixing America's Surface Transportation Act (FAST Act) repealed both the Primary Freight Network and National Freight Network from Moving Ahead for Progress in the 21st Century Act (MAP-21), and directed the FHWA Administrator to establish a National Highway Freight Network (NHFN) to strategically direct Federal resources and policies toward improved performance of highway portions of the U.S. freight transportation system. States and in certain cases, Metropolitan Planning Organizations (MPOs), are responsible for designating public roads for the CRFCs and CUFCs in accordance with section 1116 of the FAST Act.

The NHFN includes the following subsystems of roadways:

- **Primary Highway Freight System (PHFS):** This is a network of highways identified as the most critical highway portions of the U.S. freight transportation system determined by measurable and objective national data. The network consist of 41,518 centerlines miles, including 37,436 centerline miles of Interstate and 4,082 centerline miles of non-Interstate roads.
- **Other Interstate portions not on the PHFS:** These highways consist of the remaining portion of Interstate roads not included in the PHFS. These routes provide important continuity and access to freight transportation facilities. These portions amount to an estimated 9,511 centerline miles of Interstate, nationwide, and will fluctuate with additions and deletions to the Interstate Highway System.
- **Critical Rural Freight Corridors (CRFCs):** These are public roads not in an urbanized area which provide access and connection to the PHFS and the Interstate with other important ports, public transportation facilities, or other intermodal freight facilities.
- **Critical Urban Freight Corridors (CUFCs):** These are public roads in urbanized areas which provide access and connection to the PHFS and the Interstate with other ports, public transportation facilities, or other intermodal transportation facilities.

The NHFN is an element of the National Multimodal Freight Network (NMFN), which also includes freight rail systems of Class I railroads, public ports of the U.S. that have total annual foreign and domestic trade of at least 2,000,000 short tons; inland and intra-coastal waterways of the U.S.; the Great Lakes, the St. Lawrence Seaway, and coastal and ocean routes along which domestic freight is transported; the 50 airports located in the U.S. with the highest annual landed weight; and other strategic freight assets.

The initial NMFN will be designated by December 4, 2016. There is no deadline for designating and certifying CRFCs and CUFCs, although no formula funds from the National Highway Freight Program (NHFP) may be expended on a corridor prior to its designation. Designations may occur at any time, may be full or partial designations of the CRFCs or CUFCs mileage, and the two types do not need to be designated at the same time. Designations and certification may be provided to FHWA on a rolling basis. FHWA recommends that State Freight Plans are updated to include these routes once designated.

Excluding the CRFCs and CUFCs, the NHFN in Colorado currently includes the interstates, small segments of E-470, US 6, US 85, and SH 2 in the metro Denver area and eight intermodal connectors in the metro Denver area.

- 1,217.17 miles
 - PHFS: 789.94 miles
 - PHFS Intermodal Connectors: 13.52 miles
 - Non-PHFS Interstates: 172.67 miles
 - CRFC: 160.69 miles
 - CUFC: 80.35 miles

National Highway Freight Program

The National Highway Freight Program (NHFP) provides formula funds to the States to improve the efficient movement of freight on the NHFN. Colorado is anticipated to receive approximately \$15 million annually through this program, beginning in FY 16. In order for a project to be eligible for funding under the NHFP, a project must be located on the NHFN, or be a freight intermodal or freight rail project.

Critical Rural Freight Corridors

- 160.69 miles, designated by the State

Criteria

- Is not inside an Adjusted Urbanized Area Boundary (areas over 50,000)

- Meets at least one of the following criteria:
 - Rural Principal Arterial with a minimum of 25% of AADT of the road measured in passenger vehicle equivalent units from trucks
 - Provides access to:
 - Energy exploration, development, installation or production areas
 - Grain elevators
 - Agricultural facilities
 - Mining facilities
 - Forestry facilities
 - Intermodal facilities
 - Significant air, rail, water or other freight facilities in the State
 - Connects the PHFS or Interstate System to facilities that handle more than:
 - 50,000 20 foot equivalent units per year
 - 500,000 tons per year of bulk commodities
 - Is determined by the State to be vital to improving the efficient movement of freight of importance to the economy of the State.
- States are encouraged to consider first or last mile connector routes from high-volume freight corridors to key rural freight facilities including manufacturing centers, agricultural processing centers, farms, intermodal, and military facilities

Process of Identification

- Analysis of criteria and locations of established project needs as identified in the State Highway Freight Plan and Development Program (May-June)
- Identification of potential corridor segments (July)
 - Focus on Colorado Freight Corridors identified in the [State Highway Freight Plan](#)
 - Identify smaller corridor segments aligned with areas of project need as identified in the State Highway Freight Plan, rather than entire corridors
- Review and input by Transportation Planning Regions (TPRs), Statewide Transportation Advisory Committee (STAC), and Freight Advisory Council (July-October)
- Submittal of initial Critical Rural Freight Corridor designations by November, 2016 for inclusion in initial National Multimodal Freight Network (NMFN) to be finalized on December 4, 2016 (November)
- More detailed analysis of corridors and priorities to be completed as part of Multimodal Freight Plan development.
- Corridors to be updated annually as projects are completed, needs change, etc.

Critical Urban Freight Corridors

- 80.35 miles, designated by the State in consultation with MPO, or in urbanized areas with a population of 500,000 or more, designated by the MPO in consultation with the State.

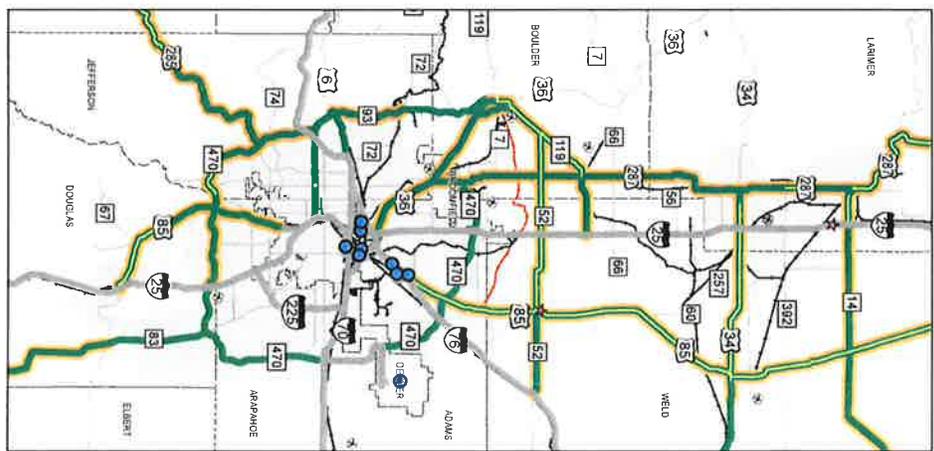
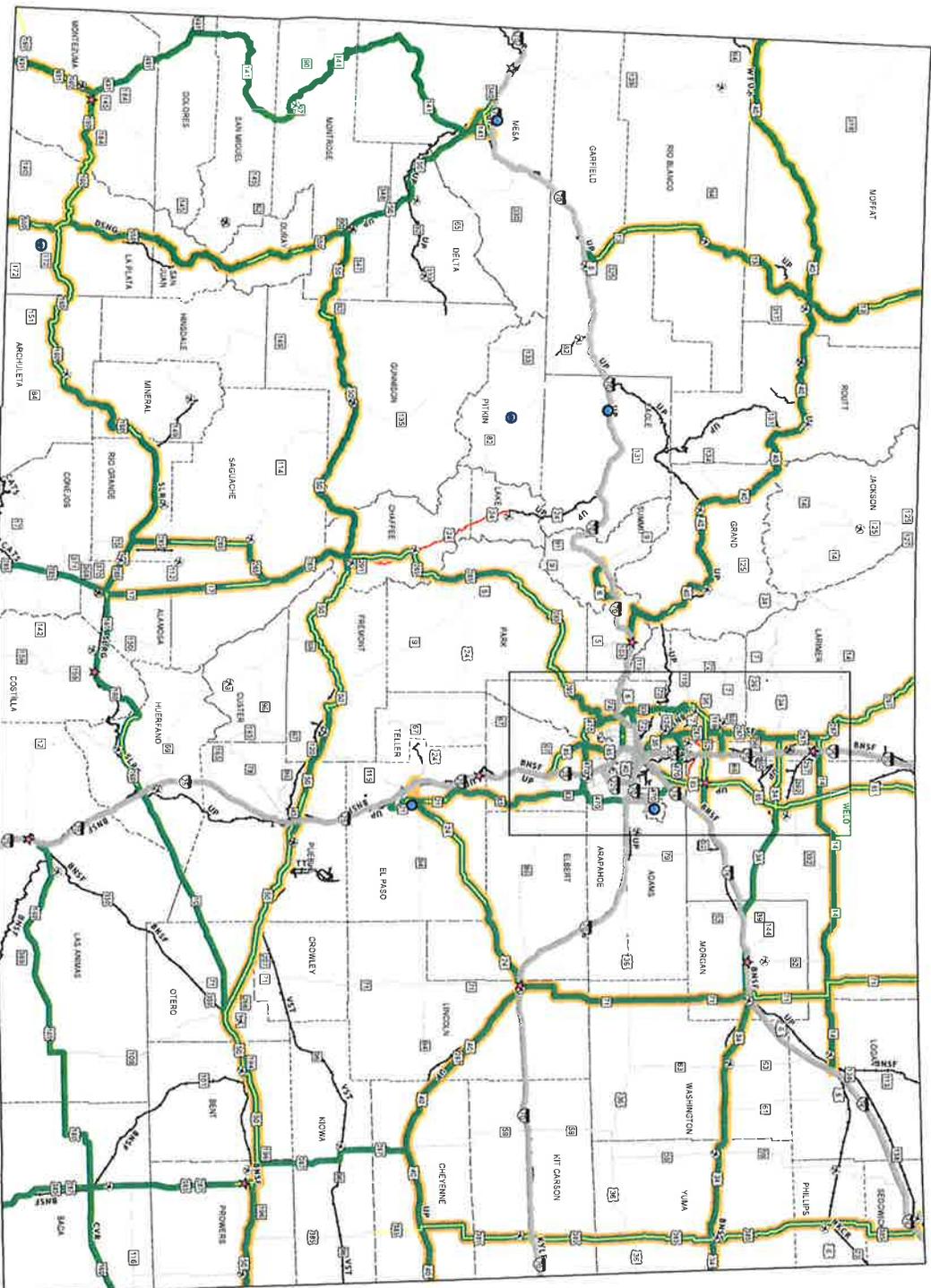
Criteria

- Is inside an Adjusted Urbanized Area Boundary (areas over 50,000)
- Meets at least one of the following criteria:
 - Connects an intermodal facility to the PHFS, Interstate System, or an intermodal freight facility
 - Is located within a corridor of a route on the PHFS and provides an alternative highway option important to goods movement
 - Serves a major freight generator, logistics center, or manufacturing and warehouse industrial land, or
 - Is important to the movement of freight within the region, as determined by the MPO or the State.
- States and MPOs are encouraged to consider first or last mile connector routes from high-volume freight corridors to freight-intensive land and key urban freight facilities, including ports, rail terminals, and other industrial zoned land.

Process of Identification

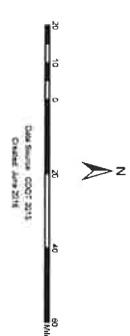
- Work with MPOs to determine approach and timeline.
- States and MPOs determine how to distribute the CUFC mileage among the urbanized areas.

Critical Freight Corridor Designation



- ★ Parts of Entry
- ✈ Commercial Service Airport
- ✈ Publicly-Owned and Operated Airport
- ▭ Counties
- Urban Areas (Pop. > 50,000)
- Intermodal Facilities

- National Highway Freight Network
- Colorado Freight Corridors
- Freight Project Areas (Non-Interstates)
- Development Program Projects (Non-Interstates)
- In-Service Railroad
- Out-of-Service Railroad
- Highways



The information contained in this map is based on the most current available data and has been checked for accuracy. However, the user is responsible for the accuracy of the information and is not responsible for any errors or omissions. This map is not intended to be used for navigation purposes.

Code of Federal Regulations

Title 49 - Transportation

Volume: 7

Date: 2011-10-01

Original Date: 2011-10-01

Title: PART 605 - SCHOOL BUS OPERATIONS

Context: Title 49 - Transportation. Subtitle B - Other Regulations Relating to Transportation (Continued). CHAPTER VI - FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

Pt. 605

PART 605—SCHOOL BUS OPERATIONS

Subpart A—General

Sec.

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Subpart B—School Bus Agreements

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Subpart C—Modification of Prior Agreements and Amendment of Application for Assistance

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- [605.35](#) Judicial review.

Subpart E—Reporting and Records

605.40 Reports and information.**Appendix A to Part 605**

Authority: Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 et seq.); 23 U.S.C. 103(e)(4); 23 U.S.C. 142 (a) and (c); and 49 CFR 1.51.

Source: 41 FR 14128, Apr. 1, 1976, unless otherwise noted.

Subpart A—General**§ 605.1 Purpose.**

(a) The purpose of this part is to prescribe policies and procedures to implement section 109(a) of the National Mass Transportation Assistance Act of 1974 (Pub. L. 93-503; November 26, 1974; 88 Stat. 1565). Section 109(a) adds a new section 3(g) to the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(g)) and differs from section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)) in that section 3(g) applies to all grants for the construction or operation of mass transportation facilities and equipment under the Federal Mass Transit Act, and is not limited to grants for the purchase of buses as is section 164(b).

(b) By the terms of section 3(g) no Federal financial assistance may be provided for the construction or operation of facilities and equipment for use in providing public mass transportation service to an applicant unless the applicant and the Administrator enter into an agreement that the applicant will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators.

§ 605.2 Scope.

These regulations apply to all recipients of financial assistance for the construction or operation of facilities and equipment for use in providing mass transportation under: (a) The Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 et seq.); (b) 23 U.S.C. 142 (a) and (c); and 23 U.S.C. 103 (e)(4).

§ 605.3 Definitions.

(a) Except as otherwise provided, terms defined in the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1604, 1608) are used in this part as so defined.

(b) For purposes of this part—

The Acts means the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1601 et seq.); 23 U.S.C. 142 (a) and (c); and 23 U.S.C. 103(e)(4).

Administrator means the Federal Mass Transit Administrator or his designee.

Adequate transportation means transportation for students and school personnel which the Administrator determines conforms to applicable safety laws; is on time; poses a minimum of discipline problems; is not subject to fluctuating rates; and is operated efficiently and in harmony with state educational goals and programs.

Agreement means a contractual agreement required under section 3(g) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(g)).

Applicant means applicant for assistance under the Acts.

Assistance means Federal financial assistance for the purchase of buses and the construction or operation of facilities and equipment for use in providing mass transportation services under the Acts, but does not include research, development and demonstration projects funded under the Acts.

Grant contract means the contract between the Government and the grantee which states the terms and conditions for assistance under the Acts.

Government means the Government of the United States of America.

Grantee means a recipient of assistance under the Acts.

Incidental means the transportation of school students, personnel and equipment in charter bus operations during off peak hours which does not interfere with regularly scheduled service to the public (as defined in the Opinion of the Comptroller General of the United States, B160204, December 7, 1966, which is attached as appendix A of this part).

Interested party means an individual, partnership, corporation, association or public or private organization that has a financial interest which is adversely affected by the act or acts of a grantee with respect to school bus operations.

Reasonable Rates means rates found by the Administration to be fair and equitable taking into consideration the local conditions which surround the area where the rate is in question.

School bus operations means transportation by bus exclusively for school students, personnel and equipment in Type I and Type II school vehicles as defined in Highway Safety Program Standard No. 17.

Trippler service means regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as "school bus" or "school special". These buses may stop only at a grantee or operator's regular service stop. All routes traveled by tripper buses must be within a grantee's or operator's regular route service as indicated in their published route schedules.

Urban area means the entire area in which a local public body is authorized by appropriate local, State and Federal law to provide regularly scheduled mass transportation service. This includes all areas which are either: (a) Within an "urbanized area" as defined and fixed in accordance with 23 CFR part 470, subpart B; or (b) within an "urban area" or other built-up place as determined by the Secretary under section 12(c)(4) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1608(c)(4)).

§ 605.4 Public hearing requirement.

Each applicant who engages or wishes to engage in school bus operations shall afford an adequate opportunity for the public to consider such operations at the time the applicant conducts public hearings to consider the economic, social or environmental effects of its requested Federal financial assistance under section 3(d) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(d)).

Subpart B—School Bus Agreements

§ 605.10 Purpose.

The purpose of this subpart is to formulate procedures for the development of an agreement concerning school bus operations.

§ 605.11 Exemptions.

A grantee or applicant may not engage in school bus operations in competition with private school bus operators unless it demonstrates to the satisfaction of the Administrator as follows:

- (a) That it operates a school system in its urban area and also operates a separate and exclusive school bus program for that school system; or
- (b) That private school bus operators in the urban area are unable to provide adequate transportation, at a reasonable rate, and in conformance with applicable safety standards; or
- (c) That it is a state or local public body or agency thereof (or a direct predecessor in interest which has acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) who was so engaged in school bus operations:

(1) In the case of a grant involving the purchase of buses—anytime during the 12-month period immediately prior to August 13, 1973.

(2) In the case of a grant for construction or operating of facilities and equipment made pursuant to the FT Act as amended (49 U.S.C. 1601 *et seq.*), anytime during the 12-month period immediately prior to November 26, 1974.

§ 605.12 Use of project equipment.

No grantee or operator of project equipment shall engage in school bus operations using buses, facilities or equipment funded under the Acts. A grantee or operator may, however, use such buses, facilities and equipment for the transportation of school students, personnel and equipment in incidental charter bus operations. Such use of project equipment is subject to part 604 of Federal Mass Transit Regulations.

§ 605.13 Tripper service.

The prohibition against the use of buses, facilities and equipment funded under the Acts shall not apply to tripper service.

§ 605.14 Agreement.

Except as provided in § 605.11 no assistance shall be provided under the Acts unless the applicant and the Administrator shall have first entered into a written agreement that the applicant will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators.

§ 605.15 Content of agreement.

(a) Every grantee who is not authorized by the Administrator under § 605.11 of this part to engage in school bus operations shall, as a condition of assistance, enter into a written agreement required by § 605.14 which shall contain the following provisions:

(1) The grantee and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.

(2) The grantee agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(b) Every grantee who obtains authorization from the Administrator to engage in school bus operations under § 605.11 of this part shall, as a condition of assistance, enter into a written agreement required by § 605.14 of this part which contains the following provisions:

(1) The grantee agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.

(2) The grantee, or any operator of project equipment, agrees to promptly notify the Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.

(3) The grantee agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(4) The grantee agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

§ 605.16 Notice.

(a) Each applicant who engages or wishes to engage in school bus operations shall include the following in its application:

(1) A statement that it has provided written notice to all private school bus operators operating in the urban area of its application for assistance and its proposed or existing school bus operations;

(2) A statement that it has published in a newspaper of general circulation in its urban area a notice of its application and its proposed or existing school bus operations;

(b) The notice required by paragraphs (a) (1) and (2) of this section shall include the following information:

(1) A description of the area to be served by the applicant.

(2) An estimation of the number of each type of bus which will be employed on the proposed school bus operations, and the number of weekdays those buses will be available for school bus operations.

(3) A statement of the time, date, and place of public hearings required under section 3(d) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(d)), to be held on the application for assistance.

(4) A statement setting forth reasons the applicant feels it should be allowed to engage in school bus operations under § 605.11 of this part.

(c) Copies of the application for assistance and notice required by paragraph (a) of this shall be available for inspection during the regular business hours at the office of the applicant.

§ 605.17 Certification in lieu of notice.

If there are no private school bus operators operating in the applicant's urban area, the applicant may so certify in its application in lieu of meeting the requirements of § 605.16. This certification shall be accompanied by a statement that the applicant has published, in a newspaper of general circulation in its urban area, a notice stating that it has applied for assistance as provided under § 605.16(b) and that it has certified that there are no private school bus operators operating in its urban area. A copy of the notice as published shall be included.

§ 605.18 Comments by private school bus operators.

Private school bus operators may file written comments on an applicant's proposed or existing school bus operations at the time of the public hearing held pursuant to section 3(d) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(d)). The comments of private school bus operators must be submitted by the applicant to the Administrator together with the transcript of this public hearing.

§ 605.19 Approval of school bus operations.

(a) The Administrator will consider the comments filed by private school bus operators prior to making any findings regarding the applicant's proposed or existing school bus operations.

(b) After a showing by the applicant that it has complied with the requirements of 49 U.S.C. 1602(d) and this subpart, the Administrator may approve its school bus operations.

(c) If the Administrator finds that the applicant has not complied with the notice requirement of this part or otherwise finds that the applicant's proposed or existing school bus operations are unacceptable, he will so notify the applicant in writing, stating the reasons for his findings.

(d) Within 20 days after receiving notice of adverse findings from the Administrator, an applicant may file written objections to the Administrator's findings or submit a revised proposal for its school bus operations. If an applicant revises its proposed or existing school bus operations, it shall mail a copy of these revisions along with the findings of the administrator to private school bus operators required to be notified under § 605.16.

(e) Private school bus operators who receive notice under paragraph (d) of this section may within 20 days after receipt of notice file written comments on the proposed revisions with the Administrator. The Administrator will consider these comments prior to his approval of a proposed revision by the applicant.

(f) Upon receipt of notice of approval of its school bus operations, the applicant may enter into an agreement with the Administrator under § 605.14.

Subpart C—Modification of Prior Agreements and Amendment of Application for Assistance**§ 605.20 Modification of prior agreements.**

(a) Any grantee which, prior to the adoption of this part, entered into an agreement required by section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602(a)(b)), or section 3(g) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(g)), who engages or wishes to engage in school bus operations in competition with private school bus operators, shall seek modification of that agreement in accordance with paragraphs (b) through (d) of this section.

(b) The grantee shall develop a statement setting forth in detail the reasons it feels it should be allowed to engage in school bus operations under § 605.11 of this part. A copy of the statement should be provided private school bus operators who provide service in the grantee's urban area.

(c) The grantee shall allow 30 days for persons receiving notice under this section to respond with written comments concerning its proposed or existing school bus operations.

(d) After receiving written comments, the grantee shall send his proposal with written comments thereon to the Administrator for his review under § 605.17.

§ 605.21 Amendment of applications for assistance.

Pending applications for assistance upon which public hearings have been held pursuant to section 3(d) of the Federal Mass Transit Act of 1964, as amended (49 U.S.C. 1602(d)), and applications which have been approved by the Administrator but for which no grant contract has been executed, shall be amended by the applicant to conform to this part by following the procedures of § 605.20(b) through (d).

Subpart D—Complaint Procedures and Remedies**§ 605.30 Filing a complaint.**

Any interested party may file a complaint with the Administrator alleging a violation or violations of terms of an agreement entered into pursuant to § 605.14. A complaint must be in writing, must specify in detail the action claimed to violate the agreement, and must be accompanied by evidence sufficient to enable the Administrator to make a preliminary determination as to whether probable cause exists to believe that a violation of the agreement has taken place.

§ 605.31 Notification to the respondent.

On receipt of any complaint under § 605.30, or on his own motion if at any time he shall have reason to believe that a violation may have occurred, the Administrator will provide written notification to the grantee concerned (hereinafter called "the respondent") that a violation has probably occurred. The Administrator will inform the respondent of the conduct which constitutes a probable violation of the agreement.

§ 605.32 Accumulation of evidentiary material.

The Administrator will allow the respondent not more than 30 days to show cause, by submission of evidence, why no violation should be deemed to have occurred. A like period shall be allowed to the complainant, if any, during which he may submit evidence to rebut the evidence offered by the respondent. The Administrator may undertake such further investigation, as he may deem necessary, including, in his discretion, the holding of an evidentiary hearing or hearings.

§ 605.33 Adjudication.

(a) After reviewing the results of such investigation, including hearing transcripts, if any, and all evidence submitted by the parties, the Administrator will make a written determination as to whether the respondent has engaged in school bus operations in violation of the terms of the agreement.

(b) If the Administrator determines that there has been a violation of the agreement, he will order such remedial measures as he may deem appropriate.

(c) The determination by the Administrator will include an analysis and explanation of his findings.

§ 605.34 Remedy where there has been a violation of the agreement.

If the Administrator determines, pursuant to this subpart, that there has been a violation of the terms of the agreement, he may bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment.

§ 605.35 Judicial review.

The determination of the Administrator pursuant to this subpart shall be final and conclusive on all parties, but shall be subject to judicial review pursuant to title 5 U.S.C. 701-706.

Subpart E—Reporting and Records

§ 605.40 Reports and information.

The Administrator may order any grantee or operator for the grantee, to file special or separate reports setting forth information relating to any transportation service rendered by such grantee or operator, in addition to any other reports required by this part.

Pt. 605, App. A

Appendix A to Part 605

Comptroller General of the

United States,

Washington, DC, December 7, 1966.

Dear Mr. Wilson: The enclosure with your letter of October 4, 1966, concerns the legality of providing a grant under the Federal Mass Transit Act of 1964 to the City of San Diego, (City), California. The problem involved arises in connection with the definition in subsection 9(d)(5) of the Act, 49 U.S.C. 1608(d)(5), excluding charter or sightseeing service from the term "mass transportation."

It appears from the enclosure with your letter that the City originally included in its grant application a request for funds to purchase 8 buses designed for charter service. Subsequently the City amended its application by deleting a request for a portion of the funds attributable to the charter bus coaches. However, in addition to the 8 specially designed charter buses initially applied for, the City allegedly uses about 40 of its transit type buses to a substantial extent for charter-type services. In light of these factors surrounding the application by the City, the enclosure requests our opinion with regard to the legality of grants under the Act as it applies to certain matters (in effect questions), which are numbered and quoted below and answered in the order presented.

Number one:

"The grant of funds to a City to purchase buses and equipment which are intended for substantial use in the general charter bus business as well as in the Mass Transportation type business."

The Federal Mass Transit Act of 1964 does not authorize grants to assist in the purchase of buses or other equipment for any service other than urban mass transportation service. Section 3(a) of the Act limits the range of eligible facilities and equipment to "* * * buses and other rolling stock, and other real or personal property needed for an efficient and coordinated mass transportation system." In turn, "mass transportation" is defined, in section 9(d)(5) of the Act, specifically to exclude charter service. We are advised by the Department of Housing and Urban Development (HUD) that under these provisions, the Department has limited its grants to the purchase of buses of types suitable to meet the needs of the particular kind of urban mass transportation proposed to be furnished by the applicant."

HUD further advises that:

"One of the basic facts of urban mass transportation operations is that the need for rolling stock is far greater during the morning and evening rush hours on weekdays than at any other time. For that reason, any system which has sufficient rolling stock to meet the weekday rush-hour needs of its customers must have a substantial amount of equipment standing idle at other times, as well as drivers and other personnel being paid when there is little for them to do. To relieve this inefficient and uneconomical situation, quite a number of cities have offered incidental charter service using this idle equipment and personnel during the hours when the same are not needed for regularly scheduled runs. Among the cities so doing are Cleveland, Pittsburgh, Alameda, Tacoma, Detroit and Dallas.

"Such service contributes to the success of urban mass transportation operations by bringing in additional revenues and providing full employment to drivers and other employees. It may in some cases even reduce the need for Federal capital grant assistance.

"We do not consider that there is any violation of either the letter or the spirit of the Act as a result of such incidental use of buses in charter service. To guard against abuses, every capital facilities grant contract made by this Department contains the following provisions:

" 'Sec. 4. *Use of Project Facilities and Equipment*—The Public Body agrees that the Project facilities and equipment will be used for the provision of mass transportation service within its urban area for the period of the useful life of such facilities and equipment. . . . The Public Body further agrees that during the useful life of the Project facilities and equipment it will submit to HUD such financial statements and other data as may be deemed necessary to assure compliance with this Section.' "

It is our view that grants may be made to a city under section 3(a) of the Act to purchase buses needed by the city for an efficient and coordinated mass transportation system, even though the city may intend to use such buses for charter use when the buses are not needed on regularly scheduled runs (*i.e.*, for mass transportation purposes) and would otherwise be idle.

Number two:

"Whether a grant of such funds is proper if charter bus use is incidental to mass public transportation operations. If so, what is the definition of *incidental use*."

We are advised by HUD that under its legislative authority, it cannot and does not take charter service requirements into consideration in any way in evaluating the needs of a local mass transportation system for buses or other equipment.

HUD further advises that:

"However, as indicated above, we are of the opinion that any lawful use of project equipment which does not detract from or interfere with the urban mass transportation service for which the equipment is needed would be deemed an incidental use of such equipment, and that such use of project equipment is entirely permissible under our legislation. What uses are in fact incidental, under this test, can be determined only on a case-by-case basis."

In view of what we stated above in answer to the first question, the first part of question two is answered in the affirmative.

As to the second part of the question, in *Security National Insurance Co. v. Secuoyah Marina*, 246F.2d 830, "incident" is defined as meaning "that which appertains to something else which is primary." Thus, we cannot say HUD's definition of *incidental use* as set forth above is unreasonable. Under the Act involved grants may be made to purchase buses only if the buses are needed for an efficient and coordinated mass transportation system. It would appear that if buses are purchased in order to meet this need, and are, in fact, used to meet such need, the use of such buses for charter service when not needed for mass transportation services would, in effect, be an "incidental use," insofar as pertinent here. In our opinion such incidental use would not violate the provisions of the 1964 Act.

Number three:

"The grant of funds for mass public transportation purposes to a City which has expressed an intent to engage in the general charter bus business when such funds would in effect constitute a

subsidy to the City of its intended charter bus operations; i.e. freeing Municipal funds with which to purchase charter bus equipment.”

Section 4(a) of the 1954 Act (49 U.S.C. 1603(a)) provides, in part, as follows:

“* * * The Administrator (now Secretary), on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 1602 of this title cannot be reasonably financed from revenues—which portion shall hereinafter be called ‘net project cost’. The Federal grant for such a project shall not exceed two-thirds of the net project cost. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds * * *.”

It is clear from the legislative history of the Act involved that the “revenues” to be considered are mass transportation system revenues including any revenues from incidental charter operations. There is nothing in the language of the Act which requires HUD to take into account the status of the general funds of an applicant city in determining how much capital grant assistance to extend to that city.

It should be noted that in a sense nearly every capital grant to a city constitutes a partial subsidy of every activity of the city which is supported by tax revenues, since it frees tax revenues for such other uses.

Number four:

“With specific reference to the application of the City of San Diego for funds under its application to the Department of Housing and Urban Development dated June 2, 1966, whether the Act permits a grant to purchase equipment wherein 25 percent of such equipment will be used either exclusively or substantially in the operation of charter bus services.”

As to the City of San Diego's grant application, we have been advised by HUD as follows:

“As explained above, the Act authorizes assistance only for facilities to be used in mass transportation service. We could not, therefore, assist San Diego in purchasing any equipment to be used ‘exclusively’ in the operation of charter bus service. Furthermore, as also explained above, assisted mass transportation equipment can be used only incidentally for such charter services.

“Whether equipment used ‘substantially’ in such service qualifies under this rule can be answered only in the light of the specifics of the San Diego situation. * * * we have already, during our preliminary review of the City's application, disallowed about \$150,000 of the proposed project cost which was allocated to the purchase of eight charter-type buses.

“The final application of the City of San Diego is presently under active consideration by this Department. In particular, we have requested the City to furnish additional information as to the nature and extent of the proposed use, if any, of project facilities and equipment in charter service, so that we can further evaluate the application under the criteria above set forth. We have also requested similar information from Mr. Fredrick J. Ruane, who has filed a taxpayers' suit (Superior Court for San Diego County Civil #297329) against the City, contesting its authority to engage in charter bus operations.”

As indicated above, it is clear that under the Act in question grants may not legally be made to purchase buses to be used “exclusively” in the operation of charter bus service. However, in view of the purposes of the Act involved it is our opinion that a city which has purchased with grant funds buses needed for an efficient mass transportation system, is not precluded by the act from using such buses for charter service during idle or off-peak periods when the buses are not needed for regularly scheduled runs. As indicated above, such a use would appear to be an incidental use.

The fourth question is answered accordingly.

As requested, the correspondence enclosed with your letter is returned herewith.

Sincerely yours,

Frank H. Weitzel,
*Assistant Comptroller General
of the United States.*

Enclosures:

The Honorable Bob Wilson, House of Representatives.

MARCH 29, 1976.

Inflationary Impact Statement

final regulations on school bus operations

I certify that, in accordance with Executive Order 11821, dated November 27, 1974, and Departmental implementing instructions, an Inflationary Impact Statement is not required for final regulations on School Bus Operations.

Robert E. Patricelli,
*Federal Mass Transit
Administrator.*