



December 13, 2009

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To: Interested Parties

Subject: I-70 East EIS Collaboration Assessment and Draft Process

Introduction

This document is presented by The Keystone Center to set the stage for a collaborative process whose goal is to produce a recommendation on the reconstruction of nearly 12 miles of Interstate 70 (I-70) between its intersections with Interstate 25 on the west, and Tower Road on the east. This document summarizes Keystone's understanding of the issues to be addressed, the steps undertaken to form the collaborative group and convene the process, the interests and concerns expressed by entities that are affected by the decision and proposed meeting and discussion processes.

This is a living document, whose conclusions and process design ideas will be revised and refined in the period leading to the first meeting of the collaborative group, the Preferred Alternative Collaborative Team (PACT) in the first quarter of 2010. It reflects Keystone's best thinking about how the collaborative process should proceed, based on interviews with more than 60 residents, neighborhood groups, businesses and business groups, local governments, state and federal agencies with a role in the decision, and other interest groups (see appendix for list).

The document is divided into five sections:

1. **Situation Assessment** – the facilitators' view of the issues and topics to be considered in the collaborative process
2. **Readiness for Collaboration** – the facilitators' recommendations for bringing the parties into the first collaborative session
3. **Membership of the PACT** – criteria for the composition of the PACT, criteria for participants, and selection process
4. **Initial Statement of Interests** – a preliminary list of the needs and concerns of the major interest groups
5. **Process Design** – the facilitators' recommended course of action for the collaborative process

1. Situation Assessment

To assess the issues, Keystone conducted interviews to ascertain the substantive needs of interested stakeholders (e.g. transportation access, quality of life, economic development, efficiency, environmental – see section 4 for a full draft list). It also gathered information about procedural needs (e.g. transparency, closure, inclusion, parity, timeliness). During the interviews, stakeholders were encouraged to shift their thinking from positions they may hold (i.e. a preference for an alignment), to the underlying interests that motivate them (i.e. to protect an important location in their neighborhood). The underlying interests will serve as the criteria by which the group collectively judges which set of transportation solutions and associated mitigation is best for everyone.

Purpose and Need

I-70 is deteriorating and insufficient to carry the present or future demand that is necessary for a major interstate highway. The Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA) initiated planning for the reconstruction of the identified stretch of I-70 in 2003. The agency began an Environmental Impact Statement (EIS) process under the National Environmental Policy Act (NEPA), which defined the purpose and need for the project thus:

Purpose: “The purpose of the project is to implement a transportation solution that improves safety, access, and mobility and addresses congestion on I-70.”

Need: “The need for this project results from the following issues:

- Increased transportation demand.
- Limited transportation capacity.
- Safety concerns.
- Transportation infrastructure deficiencies”

CDOT conducted extensive public engagement and gathered input on the Draft Environmental Impact Statement (DEIS), which was published in November 2008. The document remained open for an extended comment period that ended on March 31, 2009. The DEIS set out (resulted in) four alternatives for the reconstruction, each with a set of variations, as the starting point for selecting a preferred alternative. The preferred alternative that will be published in the final EIS will be a refined version of one of the two alternatives identified in the DEIS.

The four basic alternative alignments are capacity improvements to the current alignment alternative, capacity improvements to the current alignment with designated managed lanes, realignment alternative with capacity improvements and realignment alternative with a managed lane. The current alignment alternatives refers to the alternatives in the DEIS that would reconstruct I-70 more or less in its present location. The realignment alternatives would divert I-70 northeastward from about Brighton Boulevard, then eastward roughly between 52nd and 54th Avenues, and then interconnecting with I-270 between Dahlia and Ivy Streets, and returning to the current alignment of I-70 east of Quebec St. (For details, see: <http://i-70east.com/reports.html>)

Key Elements from Interviews

Certain elements that emerged from interviews shed light on the effectiveness of problem-solving and the choice of a particular collaboration process:

- Interviews indicated that there are some concerns about the sufficiency of data related to the realignment alternative as it crosses into Commerce City and continues east and southward to Quebec Street. Concerns relate specifically to the data in the DEIS regarding traffic impacts, the data’s relationship with pre-existing or planned infrastructure, neighborhood impacts, planned developments and other community planning. Some interviews indicated that there is some lack of knowledge about the alternatives and the impacts they would cause.
- A number of interviewees questioned the urgency of convening a collaborative process to make the alignment recommendation, given that neither CDOT nor any other entity has even initially identified sources of funding. Others understood the collaboration is a way to select the preferred alternative in a timely manner, so that work could begin to identify the funding sources that would be needed to finance the construction.
- Interviews revealed a consistent set of interests desired in any solutions: efficient access to/from I-70, economic development, community cohesion, and human health and safety impacts, among others, regardless of which alignment may be chosen. Similar concerns were expressed for both

alignments in terms of loss of homes and businesses, the continuation of a physical neighborhood division or the creation of a new division, and environmental justice considerations.

- Neither alternative will satisfy every stakeholder or resident in the study area. The binary choice of one alignment over another cannot be reconciled absolutely. It is a tough decision – all options have impacts on people and communities, and mitigation can only do so much. Therefore the process design will need to address how the problem can be dealt with by the PACT.

First, the process must build upon a shared definition of the problem, rather than different definitions based on each individual's perspective. Next, there must be willingness to see each other's impacts, concerns and interests as valid and worthy of consideration in any alternative. The problem must be defined in a way that it addresses all stakeholders' interests in access, economic development opportunities, community cohesion, and not be limited to any specific interest.

- The process will be designed to create a safe place for free and open dialogue where no one party or person dominates the discussion or intimidates others.

Concerns were expressed that real and perceived differences of power and influence could be exploited during the PACT dialogue. The process must recognize and address any sense of domination or victimization, past or present as the I-70 challenge cannot be solved by power and pressure. Stakeholders need to collaboratively/equally understand the breadth of the problem (beyond the problem they see for themselves) and look to each other to find the solution that will work for everyone.

2. Readiness for Collaboration

The Keystone Center considered several factors in order to determine whether the situation is appropriate and ready for a collaborative effort. Those include: Whether there is absence of a clear solution; whether there are highly divergent views; whether there was general agreement on the problem; whether there were multiple subordinate issues; whether there was sufficient willingness to negotiate; and whether there was sponsorship by the decision-maker.

We believe that there is sufficient interest in a collaborative process and willingness that the issues can be resolved through a collaborative process. This does not necessarily guarantee consensus, by any means, but evolution of understanding is possible if participants agree to welcome new ideas and to participate in good faith.

There are additional important motivations that support our belief that a collaborative process would be fruitful:

- A sense that this problem must be solved:
 - So that people and businesses can make investment decisions in the area
 - To address continued safety and health concerns along the corridor
 - Because of the inflation risk if the project is delayed
 - In order to conclude the EIS process
 - So that planning for corridor improvements can move forward in order to better identify and solicit future funding sources
- Willing parties – There are identifiable parties who are prepared to participate in the collaborative process and who have expressed a willingness to work toward a solution.
- There is an alternative to a collaborative process – In the absence of collaboration in which stakeholders can control the outcome, there is a viable alternative: CDOT and FHWA would complete the EIS, select a preferred alternative and request that the FHWA issue a Record of

Decision. This prospect is a motivating factor for parties to take control of their own fate by entering into collaboration.

Moreover, The Keystone Center during interviews identified two important issues that need to be addressed before convening stakeholders for the collaborative process.

- What data and technical information is lacking for the realignment alternative that would be necessary to begin discussions?
- What steps would be taken to secure funding for constructing of either of the alternatives, and what other possible approaches to additional funding can be identified?

Without addressing these questions, participants may less able to engage in fully informed discussions, or be willing to work on the hard decisions on the issues. Although there is interest, we recommend a pre-convening phase to address these narrower issues would improve the chances of success of the collaboration.

3. Membership of the PACT

At the time, Keystone is recommending that the composition of the PACT be representatives of governments, community and business interests from Adams County, Aurora, Commerce City and Denver, along with sponsoring federal and state agencies, key agencies with interests in the collaboration, and other interests in transportation, environment and historic preservation. The final draft list of representation and participants will be distributed for comment before the first meeting.

Criteria for Selecting Members of the PACT

To develop the make up of the stakeholder group, Keystone is continuously weighing the interests that should be represented on the PACT, and which individuals would best represent those interests. The ideal collaborative group in this case would represent all relevant interests, directly or indirectly and satisfies the following questions.

- Are all impacted local government entities represented?
- Are all interests represented by at least one group, agency or individual?
- Does each organization/agency represent a well-defined constituency?
- Are there regionally significant commercial enterprises present that would be affected by most or all of the alternatives? Can they be represented by others?
- Which areas or neighborhoods are directly impacted (the facilities would lie within the boundary; the residents would see or hear the facility); or indirectly affected at some greater distance (potential for changes in traffic patterns, etc.)?
- What is the optimum balance among interests? It is impossible to achieve perfect balance in this case because of the widely varying levels of impacts along the length of the corridor – on the west the location of the roadway, with all of its ramifications, and on the east where the issues are more technical and involve fewer environmental justice issues.
- What is a manageable size? The PACT must be of a size that is manageable and amenable to breaking up into effective working groups to focus on the alternatives.

Individual participation is being determined by the following criteria, requiring those who fill those seats to have the authority to represent their constituents' interests and be able and willing to:

- Engage in thoughtful, thorough deliberation

- Advocate for the interests of his/her agency
- Share relevant information with other group members
- Keep constituents informed and advocate within constituent organizations for support of the group's work
- Represent the diversity of opinions from constituents, not just one's own view or one subset of opinions
- Keep the other collaboration participants informed about constituent perspectives
- Work to identify promising options
- Refrain from undermining group recommendations and reports
- Secure approval within the organization for permission (within limits) to negotiate an agreement
- Explicitly inform the group when the limits of authority are reached
- Elevate issues within the organization as a way of addressing the limitation
- Work towards resolution in the collaborative process (not outside the process)
- Attend all collaborative sessions
- Seek to put the public interest ahead of self-interest
- Work toward solutions that all can agree to, leaving previously held positions and favorite solutions aside

Participant Identification and Selection Process

Potential PACT members have been identified, but no members of the PACT have been selected at this time. The Keystone Center is responsible for selecting members of the PACT; the draft list will be distributed for comment well in advance of the first meeting. No state or local entity will directly appoint any member.

To identify potential candidates, Keystone took the following steps.

- Developed a list of neutral criteria that Keystone would use to identify and select members of the PACT.
- Contacted more than 40 individuals who received a letter from CDOT Executive Director Russell George, informing them of the plan to form a collaborative group to make a recommendation on the I-70 reconstruction. The letters were sent to elected officials and key staff of the four local governments in the study corridor, as well as community and business leaders.
- Obtained from the prime contractor, PBS&J, a compilation of all of the individuals who had signed in at meetings during the previous public engagement and outreach period, sorted by location and interest category (e.g. agency, community, business).
- Obtained additional names and confirmed others on existing lists through referrals from staff and elected officials. Keystone invited officials to forward names of those who had made inquiries about the process.
- Pursued additional interviews with people who were recommended by the first set of interviewees.
- Interviewed officials from various state and federal agencies with a regulatory or substantive interest in the corridor (e.g. RTD, Corps of Engineers).
- Followed-up with interviewees, as needed, to clarify issues and establish interest in membership on the PACT.

- Logged more than 60 interviews in order to identify and understand the diversity of interests, and to identify potential candidates for membership on the PACT.

4. Initial Statement of Interests (starting point)

Stakeholders shared their interests during interviews. The following list is a thorough summary of the range of interests expressed by all stakeholders, but it is not all-inclusive, nor is it in priority order. The PACT will discuss and revise this list in the first meeting. As stated previously, participants will be guided through the collaboration process to focus on their underlying interests. The collaborative process should address:

- Accessibility
 - Provide convenient, direct ingress and egress for commuters, surrounding residents, business customers, employer/employees and large truck transportation
 - Provide or maintain adequate ingress and egress at critical intersections in the project area. These factors will vary depending on the alignment and the various intersections that will be required in by the reconstruction or as negotiated by the PACT.
- Long-term functionality of mobility and meeting demand
 - Provide for home/work/home trips
 - Provide for regional commercial travel
 - Provide for regional non-work trips – recreation, arts, retail, sports
 - Address traffic impacts on other interstate highways (I-270 and I-225) due to new or redirected traffic
- Neighborhood quality and environmental justice
 - Improve neighborhood connectivity
 - Avoid unnecessary, negative or disproportionate neighborhood impacts
 - Minimize unavoidable impacts
 - Protect historic resources
 - Address congestion on local roads
 - Avoid disproportionate impacts to poor and communities of color
- Human health and safety
 - Provide a safe environment for the traveling public
 - Protect adjacent residences and businesses from physical, visual and auditory impacts to the greatest extent possible
- Economic Development
 - Allow for transportation solutions that enhance regional and local economic activity and protect economic assets (e.g., Quebec Street north and south of I-70, 46th Avenue development or redevelopment potential)
 - Protect regional economic activity and local tax base
- Environmental protection
 - Protect the South Platte River, Sand Creek, the Sand Creek Greenway and other water features.
 - Protect water quality
 - Protect air quality
- Schools

- Avoid unnecessary or negative impacts to schools
- Enhance or replace schools that are impacted or that would be taken
- Protect school children from impacts of the highway structure
- Fulfill regulatory requirements and advance local and regional comprehensive plans
 - Align I-70 project elements with state requirements
 - Align I-70 project elements with federal regulatory requirements (Section 404 and other wetland, water quality protection; Section 106 and other historic preservation protection; NEPA requirements associated with the EIS, etc.)
 - Align I-70 project elements with local and state plans

5. Process Design

Pre-Convening Phase

Before convening the PACT, The Keystone Center will conduct a pre-convening conference with Commerce City, CDOT, and FHWA to discuss existing and needed data and information on the realignment alternative, in order to have informed discussions in the PACT. The outcome of this meeting will be made available to the PACT.

We expect the meeting and subsequent work on necessary additional data to take about two months. During this time The Keystone Center will undertake final analyses of whether parties are willing to collaborate, work together to make tough choices, and if so, finalize the list of participants using the criteria in the convening section of this report and distribute the draft for comment.

During the preparation of necessary data, Keystone will monitor the work and help ensure that the materials will be available or in sufficiently advanced development so that the first PACT meeting can be conducted in the first quarter of 2010. It is our judgment that the PACT collaboration should commence at a set time so that the collaborative discussion is not delayed unnecessarily. These pre-convening meetings will help build trust among the parties and build relationships that will be maintained throughout the process. Keystone will assess whether any delays are reasonable, through a process of consultation with all of the parties.

Parties will be expected to conduct themselves in good faith during the pre-convening phase, because the success of this phase will determine whether the full collaboration of the PACT can commence. Failure at this stage will result in the default decision-making process by CDOT through the standard EIS process.

Convening the PACT

Schedule: The PACT will meet for approximately one year, starting with the first full meeting, now scheduled for the first quarter of 2010.

Purpose: Creation and convening of the I-70 East Preferred Alternative Collaborative Team (PACT) as a consensus decision-making collaborative group, charged with recommending the preferred alternative. Specific goals would include:

- Create a common understanding of the transportation, safety, environmental, neighborhood and economic issues associated with I-70 between I-25 and Tower Road.
- Review and enhance the various existing DEIS solutions to address these issues and explore the advantages and disadvantages of each solution.
- If possible, arrive at a consensus recommendation, on a preferred transportation alternative for I-70 from I-25 to Tower Road.

Draft Process Design

Keystone will design a discussion process that allows the participants to build consensus. The final draft structure and participants will be available for review in sufficient time in advance of the first PACT meeting. The facilitators will use this very preliminary outline to begin the collaborative process following the pre-convening phase. It is likely that the PACT will refine this process so that it can gain acceptance of all of the parties. The facilitation team retains the authority to address process issues at any time. The basic structure under consideration is as follows:

- Meetings: The PACT will meet in full-day meetings once a month, in some months more frequently. In addition, the group may choose to use subgroups focused on specific tasks identified by the PACT.
- Consensus decision-making and deliberation: A consensus agreement is one that all group members can support, built by identifying and exploring all parties' interests and by developing an outcome that satisfies these interests to the greatest extent possible. There will be no voting in any formal way. If consensus is not possible, CDOT will use the PACT's deliberations and work products as the basis to make a decision in line with their regulatory authority.
- During the process the PACT will build agreement on a list of interests that any solution must address; clarify existing data, identify and prioritize missing data; enhance alternatives to better meet the agreed list of interests; evaluate the enhanced alternatives; and select and build consensus on a single alternative.
- Elected officials will be kept apprised of the PACT process through individual briefings when requested, and through group elected official briefings, upon request by the facilitators or elected officials.
- Public involvement: Meetings of the PACT are open to the public. However, participation in the dialogue will be limited to designated members of the PACT or their designees (if applicable) and the facilitation team. The meeting agendas will provide for brief public comment periods during the meetings.
- Public meetings for open participation may be advantageous during the course of the process. Meetings could be arranged at key points in the collaborative process, to allow the participants to gather input on alternatives, provide a more complete update of their work, or test an emerging agreement.
- Neighborhood Solutions will continue to be engaged to help disseminate information around the neighborhoods that would be affected by any alignment decision. Emphasis will be placed on this area to identify methods to mitigate the impact on poorer neighborhoods and communities of color.

Appendix A: List of individuals spoken to by The Keystone Center for this assessment

1. Tom Anthony: Elyria Resident
2. Tom Acre: Commerce City, Dep. City Manager
3. David Beckhouse: Federal Transit Administration
4. Jim Benson: Commerce City, Council
5. Leo Branstetter: Elyria Business Owner
6. Jimmy Burds: Commerce City Business Association
7. Larry Burgess: Elyria/Swansea Business Association
8. Mac Callison: Aurora City, Trans. Eng.
9. Tim Carey: U.S. Army Corps of Engineers
10. Mike Cheroutes: High Performance Transportation Enterprise
11. Stephanie Cross: Denver, Councilwoman's Madison office
12. Shaun Cutting: Federal Highway Administration
13. Jim Dileo: CDPHE
14. Drew Dutcher: Elyria Resident
15. Bob FitzGerald: Aurora, City Council
16. Jerry Flannery: Commerce City - City Manager
17. Greg Fulton: Colorado Motor Carriers Assn
18. Paul Garcia: Cross Community Coalition - Deputy Director
19. Russ George: CDOT – Ex. Director
20. Michael Hancock: Denver City Council
21. Dennis Hanson: Stapleton United Neighbors
22. Paulette Hirsh: Globeville Civic Association
23. Christopher Horn: Federal Highway Administration
24. Joseph Huff: Colorado Serum Company
25. Shane Hughes: Elyria Business Owner
26. Pamela Hutton: CDOT Chief Engineer
27. Scott Jaquith: Commerce City Resident (former City Council)
28. Jessica Keene: Eaton Metal Products Company
29. Kate Kramer: Sand Creek Regional Greenway
30. Eric Lee: Black Chamber - President/CEO
31. Dennis Lovato: Globeville Resident
32. Paul Ludwig: Suncor - VIP Refining and Pipelines, USA
33. Carla Madison: Denver City Council
34. Angie Malpiede: Stapleton Area Transportation Management Association
35. Jason McEldowney: Commerce City, Council
36. Fred McPeck: Denver Resident/Property Owner
37. Justin McPeck: Denver Resident/Property Owner
38. Wendy Mitchell: Aurora Economic Development Council
39. Judy Montero: Denver City Council
40. Amy Mueller: Denver, Office of the Mayor
41. Paul Natale: Commerce City, Mayor
42. Nanette Neelan: Commerce City – Dep. City Manager
43. Jeremy Nichols: Wild Earth Guardians
44. Jess Ortiz: Denver, Senior Engineer
45. Amy Pallante: Colorado State Historic Preservation
46. George Peck: Aurora Chamber of Commerce
47. Bryan Penny; Stapleton United Neighbors
48. Renie Peterson; Aurora City Council
49. Karla Petty, Federal Highway Administration - Division Administrator
50. Jumetta Posey: Neighborhood Solutions
51. Robert Quintana: Elyria, Little Pilgrim Church
52. Jeanne Shreve: Adams County – Staff
53. Tony Stewart: CDOT – Resident Engineer
54. Susan Stanton: DIA Partnership - Vice President
55. Gene Swanson: Purina
56. Ed Tauer: Aurora, Mayor
57. Joann True: Green Valley Ranch
58. Bill Van Meter: RTD FasTracks
59. Bill Vidal: Denver, Deputy Mayor/Manager Public Works
60. Ashleigh Weatherill: Cole Neighborhood
61. Kevin Wegener: Aurora, City Engineer
62. Marv Witt: National Western Stock Show
63. Betty Wonder: Elyria Resident
64. Mickey Zeppelin: Denver Business Owner