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Re: Request for new public engagement process for proposed I-270 project

Dear Director Lew,

GreenLatinos and the undersigned groups write to urge the Colorado Department of Transportation (CDOT) to revisit its plans to widen I-270 by stepping back and starting a new community outreach and education process. Conducting robust and meaningful community outreach and education is necessary to ensure that CDOT makes an equitable and fully informed decision regarding the future of the I-270 corridor. CDOT has the opportunity here to improve its community outreach and its decision-making processes, and the overarching goal should be the creation of a community-centered vision for the corridor and the neighborhood.

Careful consideration of the I-270 project is of the utmost importance for the communities of north Denver and Commerce City. These communities include some of the most polluted zip codes in the country.¹ The neighborhoods have long been harmed by the industrial facilities, freeways, and railroads that are pervasive throughout the community. These pollution harms are part of the legacy of environmental injustice that plagues Colorado and the nation. The communities nearest to I-270 include low-income, Latino, and Indigenous residents. With truck traffic, warehouses, and industrial sources of pollution so frequently prioritized over the health of the people who live and work there, the community understands firsthand the meaning of environmental racism and the resulting health harms.

Highway expansions in particular create a major health concern. Highway-widening projects induce additional vehicle travel, which in turn leads to higher emissions.² These emissions

¹ See generally Katherine L. Dickinson et al., *Who Bears the Cost? North Denver Environmental Justice Report and Data Audit*, GreenLatinos (2022), available at <https://www.greenlatinos.org/colorado>.

² Clark Williams-Derry, *Increases in greenhouse-gas emissions from highway-widening projects*, Sightline Institute (2007), <https://www.jtc.sala.ubc.ca/reports/analysis-ghg-roads.pdf>; Susan Handy et al., Cal. Env't Prot. Agency, Air Res. Bd., *Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emission* (2014).

contribute to ozone pollution—already a major health threat in the Denver metro area—as well as higher rates of asthma, cancer, heart attacks, strokes, pre-term births, and other health problems.³ Pollution can be carried as far as 2,000 meters (more than 1.5 miles) during certain times of the day, impacting numerous residents.⁴ These impacts are added to the other burdens that disproportionately impacted communities face, leading to extreme levels of cumulative harms.

In addition, if CDOT moves forward with this proposed expansion without incorporating the community’s vision for the I-270 corridor, it threatens to further inflame the community’s distrust of state and federal government officials. When the United States built out its interstate system, government officials deliberately placed freeways in Black and Brown neighborhoods, displacing more than a million people, destroying communities, and resulting in high levels of pollution impacting the remaining residents.⁵ More recently, the widening of I-70 through these same neighborhoods—over the objections of several community groups—led to widespread impacts and will result in additional air pollution burdens for years to come. CDOT must consider both the historical and recent context of its decisions, and it must incorporate an understanding of trauma sensitivity into its public outreach to the community on this proposed I-270 project.

In light of the severe harms posed by this project, we are encouraged that CDOT has committed to developing a full Environmental Impact Statement (EIS) for the I-270 project. However, we believe that any successful project to improve the I-270 corridor must grow from a community-centered vision. CDOT recently hired a community engagement liaison for the project, and now is the time to work with community through a robust process to develop a comprehensive understanding of the community’s needs. Rather than proceeding with a predetermined outcome—to widen the corridor—CDOT should first develop a community-driven needs statement, and then develop solutions that can meet those desired outcomes. Such an analysis should include a regional assessment, which is the only way to examine traffic congestion along the I-270 corridor in light of the many users who originate miles from the corridor.⁶

³ Tony Barboza, *Freeway pollution travels farther than we thought. Here’s how to protect yourself*, L.A. Times (Dec. 30, 2017, 5:00 AM), <https://www.latimes.com/local/california/la-me-freeway-pollution-what-you-can-do-20171230-htm1story.html>.

⁴ Arthur Winer et al., *Carmageddon or Carmahaven? Air Quality Results of a Freeway Closure*, 1(44) U.C. Berkeley ACCESS Mag. 17 (2014), <https://www.accessmagazine.org/wp-content/uploads/sites/7/2015/10/access-44-Carmageddon-or-Carmaheaven.pdf>.

⁵ Otis R. Taylor Jr., *America’s Highway System Is a Monument to Environmental Racism and a History of Inequity*, KQED (Mar. 13, 2023), <https://www.kqed.org/news/11943263/americas-highway-system-is-a-monument-to-environmental-racism-and-a-history-of-inequity>.

⁶ See Letter from Jude Aiello to Transportation Secretary Pete Buttigieg, U.S. Dep’t of Transp., Apr. 20, 2021 (calling for an independent regional transportation study of the Denver metro area); see also Project Update & Origin and Destination Webinar I-270, Colo. Dep’t of Transp. at 18:31 (Dec. 16, 2022), <https://www.youtube.com/watch?v=SkQi8KuWmzI> (summarizing origin/destination study for I-270 corridor and noting that more than 40% of trips in the corridor are long-distance)

I. CDOT must conduct robust community engagement.

As part of its obligations under federal and state law, as well as its commitments to equity, CDOT must fully engage the impacted community and apply an environmental justice and racial justice lens.⁷

As CDOT has recognized, Title VI of the federal Civil Rights Act of 1964 is just one of the many nondiscrimination directives that apply to its planning processes.⁸ Public engagement is a cornerstone of Title VI requirements. As CDOT has acknowledged, “[e]nhanced public input and participation at all points . . . ensures meaningful participation and non-discrimination as mandated by Title VI.”⁹ Further, the Presidential Environmental Justice Executive Order 12,898 explains that agencies should “identify[] and address[] . . . adverse human health or environmental effects of its programs, policies, and activities on minority populations and low income populations.”¹⁰ President Biden recently reaffirmed these principles in Executive Order 14,096, specifically ordering agencies to “provid[e] technical assistance, tools, and resources to assist in facilitating meaningful and informed public participation.”¹¹ While gathering and analyzing data is key to identifying and addressing such effects, the full scope of adverse effects to an impacted community cannot be uncovered without input from the community itself. Only community members can speak to their lived experiences and their most urgent needs.

CDOT must also comply with NEPA requirements.¹² CEQ has issued guidance on applying environmental justice to NEPA processes within the context of Executive Order 12,898. This guidance explains that agencies should recognize that the action’s effects on environmental justice issues are “highly sensitive to the history or circumstances of a particular community or population.”¹³ Here, for example, the recent history concerning the I-70 expansion provides important context for the environmental justice issues surrounding the proposed I-270 expansion. Both freeway projects impact the north Denver/south Commerce City communities. This second proposed expansion—just a few years after the contentious I-70 widening—must be considered in light of this history.

⁷ A racial equity framework involves “seek[ing] to solve problems for the most historically marginalized members of the community.” Lynn Peterson, *Roadways for People: Rethinking Transportation Planning and Engineering* 20 (2022).

⁸ CDOT, *A Guide to the Transportation Planning and Programming Public Involvement Process* 20 (2016), <https://www.codot.gov/programs/planning/assets/planning-process/PubInvolvementGuide2015.pdf>.

⁹ *Id.* (emphasis added).

¹⁰ Exec. Order No. 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, 59 Fed. Reg. 7629 (Feb. 16, 1994); see also CDOT, *A Guide to the Transportation Planning*, *supra* note 8, at 20 (acknowledging that Executive Order 12898 applies to planning).

¹¹ Exec. Order No. 14096, *Revitalizing Our Nation’s Commitment to Environmental Justice for All*, 88 Fed. Reg. 25251, 25254 (Apr. 21, 2023).

¹² NEPA applies to actions that receive federal funds. See *NEPA*, CDOT, <https://www.codot.gov/programs/environmental/nepa-program> (last visited July 7, 2023) (noting applicability of NEPA and corresponding Council on Environmental Quality regulations).

¹³ Council on Env’t Quality, *Environmental Justice: Guidance Under the National Environmental Policy Act* 8 (1997), https://www.epa.gov/sites/default/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf (emphasis added).

CEQ goes on to explain that when environmental justice impacts are implicated, those effects “should heighten agency attention to alternatives . . . and preferences expressed by the affected community.”¹⁴ In addition, the CEQ guidance reminds agencies to “assure meaningful community representation in the process.” For this participation “to be meaningful,” it “must occur as early as possible.”¹⁵ Further, diverse participation during scoping “is necessary for full consideration of . . . any alternatives.”¹⁶ These opportunities allow “the public to participate in the design of alternatives.”¹⁷

In addition to these federal requirements that apply to the I-270 project, CDOT should closely review and follow the recommendations made by the Environmental Justice Action Task Force. While the Colorado General Assembly is still considering the Task Force recommendations, they provide comprehensive recommendations that CDOT can begin applying now. Notably, the Task Force named CDOT in particular as a priority agency to begin implementing environmental justice analyses.¹⁸ In addition, the Task Force recommended that all agencies, including CDOT, apply the best community engagement practices.¹⁹ Agencies should coordinate with compensated community connectors to solicit community input.²⁰ Again, the input should be collected starting early in the process, during initial planning stages.²¹ These recommendations are all relevant to the proposed I-270 project.

II. CDOT should reconsider the project’s purpose and need statement based on community input.

As the foundation of a revamped and more robust community outreach and education process, CDOT should set aside the overly narrow purpose and need statement for the project and instead develop the purpose and need based on community input. Previously, CDOT has stated that the purpose and need of the I-270 project is to improve safety, improve travel time reliability, update bridges, and improve freight movement efficiency. However, this statement unreasonably limits the range of alternatives that can improve the I-270 corridor, and it risks artificially limiting the scope of the discussion to marginally different approaches for widening the highway. To ensure meaningful community engagement, CDOT should seek the community’s input on the myriad ways that the I-270 corridor impacts the community, including its noise, air pollution, division of communities, contribution to localized dangers (such as accidents at hazardous intersections near the freeway), all while failing to actually serve local residents with safe, affordable, and efficient transportation options.

With CDOT’s new commitment to develop a full EIS and the recent onboarding of a community engagement specialist, now is the ideal time to reset public engagement. Meaningful engagement in developing the EIS is critical because of the limited opportunities for community input thus

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 9

¹⁶ *Id.* at 12.

¹⁷ *Id.*

¹⁸ Colo. Env’t Just. Action Task Force, Final Report of Recommendations 17–18 (2022), https://drive.google.com/file/d/114rN-o3h3OJg8TciUzh-qxytULvyD_NE/view.

¹⁹ *Id.* at 33–34.

²⁰ *Id.* at 42.

²¹ *Id.*

far. With the onset of the Covid-19 pandemic, public engagement during the initial scoping process was extremely limited.

The limited opportunities to engage did not allow for community members to fully “help develop and comment on possible alternatives” to the proposed widening.²² First, CDOT conducted limited stakeholder outreach. Within the community, this stakeholder outreach included virtual meetings with several church leaders. But these meetings were focused on how best to reach community members, and again led by explaining—not asking—what the project’s needs were.²³ With respect to the limited substantive feedback that CDOT did receive, it is unclear whether that feedback impacted CDOT’s planning process at all. For example, one church leader noted that “[m]any . . . parishioners don’t drive and rely on public transportation,” indicating that widening I-270 would not meet the community’s needs.²⁴ If CDOT adjusted its plans based on this feedback, that information is not reflected in the final planning documents. In fact, the project’s purpose and need remained unchanged after these initial stakeholder meetings.²⁵

After the stakeholder meetings, CDOT’s public outreach involved a tour of the I-270 corridor with interested parties, including GreenLatinos, and two public virtual public events.²⁶ These events allowed participants to watch a presentation on the project, with no opportunity to ask questions.²⁷ As in the stakeholder meetings, the presentation led with the presumed answers, rather than gathering input on what problems community members see as the biggest issues to address.²⁸ Again, the project’s purpose and need was already defined and presented to participants.²⁹ While participants were asked to share their feedback on the purpose and need statement, that approach represents a “consult” method of engagement (as shown in the graphic included in the next section). Merely consulting community members after the fact—when the purpose and need statement is close to finalization—can lead to tokenization and minimizes the value of community input. When the community “is involved after the project has been scoped,”

²² Council on Env’t Quality, *Environmental Justice*, *supra* note 13, at 15.

²³ See, e.g., Jacobs Engineering, *I-270 Environmental Assessment Appendix A18: Stakeholder, Public, and Agency Outreach - Archived Initial Document 18 (2022)* [hereinafter *App ’x A18*], available at <https://www.codot.gov/projects/studies/i270study/project-documents-and-reports> (listing Project Needs and Project Goals); *id.* at 19 (asking questions about the community demographics, communication channels to reach people, and how to engage community members).

²⁴ *Id.* at 22.

²⁵ Compare *id.* at 10–11 (stakeholder meeting purpose and need) with *id.* at 18 (purpose and need presented at public outreach events several months after stakeholder meetings concluded).

²⁶ *Id.* at 2.

²⁷ CDOT, *I-270 Corridor Improvements - August 2020 Public Outreach Event*, YouTube (Aug. 31, 2020) <https://www.youtube.com/watch?v=WuRnFWcmZXM>.

²⁸ See Lynn Peterson, *supra* note 7, at 12 (“Telling communities about a perceived problem . . . instead of asking them what the problem is for them, has resulted in a lot of unwanted projects and issues between communities and local and state governments, particularly in Black and Brown communities.”).

²⁹ CDOT, *Project Purpose and Need (2020)*, https://www.codot.gov/projects/i270/assets/meeting-summaries/project-purpose-and-need_eng.pdf (slide from CDOT’s first virtual event, held in August 2020, including definition of project’s purpose, needs, and goals).

it is “often too late to make any difference.”³⁰ Again, the project’s purpose and need did not change after these virtual events.³¹

In addition to the need to incorporate community perspectives into the project’s underlying purpose, CDOT must also reset public engagement because the assumptions that underpinned the project’s purpose and need statement no longer hold true. Last year, CDOT decided to move forward with repairing I-270’s bridges while the agency continues to explore other changes to the interstate.³² This change in approach has altered the purpose and need of the project, as the original stated need was, in part, to fix those bridges.³³ CDOT also needs to revisit outdated assumptions that underpinned its initial decision making, as new information is available. For example, the I-70 widening has only recently been completed; the Covid-19 pandemic may have lasting impacts on traffic patterns; and CDOT has recently gathered data for an origin/destination study for the I-270 corridor.³⁴ All this information should be considered when developing an updated purpose and need statement.

Most critically, the new purpose and need statement should grow out of a robust community visioning process, as discussed below. In light of an updated purpose and need based on community input, different alternatives may be appropriate than what CDOT originally studied. CDOT should proceed without a fixed solution in mind and instead approach the project with an open mind to meet the community’s needs.

III. CDOT should coordinate and fund a community-driven planning process.

As CDOT begins its EIS process, its first step must be to enable the community to share its vision for the corridor and the surrounding neighborhoods. CDOT should fund an outside third-party group to facilitate a series of workshops to develop this vision. These types of workshops should not lead with CDOT’s preferred vision for the I-270 corridor or pre-determined alternatives. Rather, the workshops should seek community input and include tools such as participatory voting and other engagement techniques to ensure meaningful involvement. While transportation planners often focus on pre-determined engineering solutions, experts in the field have recognized how inclusive, people-focused planning approaches ultimately lead to more successful projects and better outcomes. To create these inclusive processes, community solutions-based approaches “center[] on engaging with the community throughout the process to get to the right solution for that community. The process is . . . about the values and needs of the

³⁰ Lynn Peterson, *supra* note 7, at 125.

³¹ Compare *App’x A18*, *supra* note 23, at 18 with Jacobs Engineering, *Draft for Internal Review: Environmental Assessment I-270 Corridor Improvements Project* - Archived Initial Document, at 3 (2022) [hereinafter *Archived EA*] (defining project needs and project goals), https://www.codot.gov/projects/studies/i270study/assets/23198_i-270-corridor-improvements-ea_workingdraft_sept2022_wm-1.pdf.

³² See CDOT, *I-270 Critical Bridge Replacements Alternative Delivery: Public/Industry Meeting*, at Slide 25 (2022), available at <https://www.codot.gov/projects/critical-bridge-replacements/meeting-materials> (select link to “Meeting slide deck”) (noting that broader environmental study for the I-270 corridor is ongoing).

GreenLatinos notes that the status of the critical bridge replacement project is unclear, as the CDOT webpage is no longer functional and, in a notice issued September 15, 2023, CDOT indicated that the bridges will be “completely replaced in the future as part of the I-270 Corridor Improvements Project.”

³³ *Archived EA*, *supra* note 31, at 3 (stating purpose of “update[ing] obsolete and deficient bridges”).

³⁴ See generally *Project Update & Origin and Destination Webinar I-270*, *supra* note 6.

people in the surrounding community, with a focus on those who have been most historically marginalized.”³⁵

It is imperative that a third-party group facilitate this process. Although CDOT should be involved, the history of its relations with the community, including the recent I-70 widening, has undermined the community’s trust. A third-party facilitator would be able to lead the visioning process much more effectively. CDOT should work with community organizations to select the third-party facilitator and to define its scope of work. This approach would help build trust between CDOT and the community.³⁶

The visioning process should start by considering community’s needs, which would inform an updated purpose and need statement. From the public perspective, the project’s needs are broader than simply improving travel times. The community’s needs include issues such as public health and safety, not just on the I-270 corridor, but on the connected streets. Once the needs are fully scoped, the engagement process can begin to assess alternatives. In addition, the visioning process must include a regional scope. CDOT’s origin/destination study, undertaken at the request of groups including GreenLatinos, demonstrates that more than 40% of trips in the I-270 corridor are long-distance.³⁷ Any solutions for the corridor therefore must consider the regional dynamics at play.

The assessment of needs and alternatives must include community members as equal thought partners. As the graphic below demonstrates,³⁸ depending on an agency’s approach, community engagement can be deeply meaningful and contribute to positive project outcomes—or it can result in marginalization and tokenization, when engagement is approached as a mere box-checking exercise. CDOT must approach community engagement from a perspective of involving, collaborating with, and deferring to the community. Again, a third-party facilitator is essential to ensuring that this engagement is meaningful.

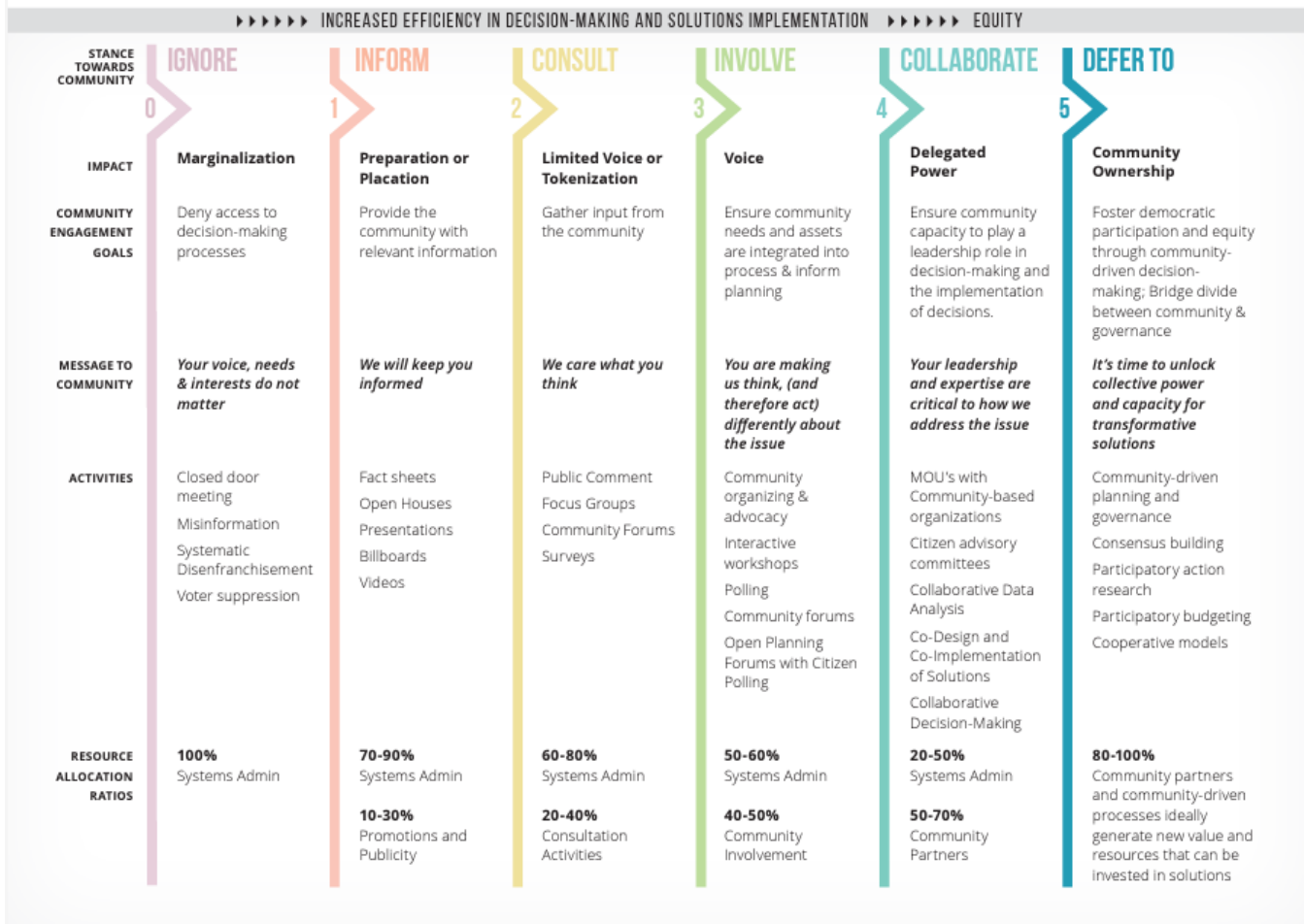
³⁵ Lynn Peterson, *supra* note 7, at 122.

³⁶ *See, e.g., id.* at 141 (noting that approach “built trust” where advisory committee, composed of community organizations and foundations, hired the facilitator and consultants working on a transportation planning study).

³⁷ Project Update & Origin and Destination Webinar I-270, *supra* note 6, at 18:31.

³⁸ Rosa Gonzalez, *The Spectrum of Community Engagement to Ownership 2* (2019), <https://movementstrategy.org/wp-content/uploads/2021/08/The-Spectrum-of-Community-Engagement-to-Ownership.pdf>.

THE SPECTRUM OF COMMUNITY ENGAGEMENT TO OWNERSHIP



As an example, the City of Houston recently engaged a third-party consulting firm to run more than six months of community engagement regarding the proposed I-45 expansion.³⁹ After gathering input from community members about their needs, the community engagement shifted to developing and workshopping alternatives. The process resulted in a new design concept that had much more support from the community as well as local officials.⁴⁰

* * *

It is this type of robust, independently facilitated community visioning process that CDOT should pursue for the I-270 project. As explained, this project should not be viewed in a vacuum. The history of transportation inequities in the local community, in addition to other

³⁹ See Sophie Dulberg, *Houston residents agree: less displacement, more transit with the I-45 expansion*, Tex. Low Income Hous. Info. Serv. (Apr. 3, 2020), <https://texashousers.org/2020/04/03/i-45-displacement-houston-residents-plans/>.

⁴⁰ *Planning and Development: North Houston Highway Improvement Project (NHHIP)*, City of Houston, <https://www.houstontx.gov/planning/nhhip/> (last visited July 7, 2023).

environmental harms, provides critical context for this proposed project. As a result of this context, full community engagement—including a thorough review of all alternatives—is all the more important. This project therefore represents a critical opportunity for CDOT to revisit and vastly improve its historic approach to outreach and decision-making processes. CDOT must seize this moment and step up to do better for the communities that are suffering as a result of historic and present-day injustices.

For these reasons, GreenLatinos and the undersigned groups urge CDOT to promptly take steps toward the requested community engagement, including by searching for a qualified third-party facilitator. GreenLatinos further requests a meeting with CDOT officials to discuss this proposal.

Sincerely,



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