

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

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December 21, 2007

COPY

Mr. David A. Nichol, P.E.
Attention: Chris Horn
Division Administrator
Federal Highway Administration Colorado Division
12300 W. Dakota Ave., Suite 180
Lakewood, Colorado 80228

Dear ^{David} ~~Mr.~~ Nichol:

The intent of this document is to solicit FHWA concurrence for an interim action involving the I-70 East DEIS currently in progress. This interim action would involve the separation of the Central Park Boulevard (CPB) Interchange from the ongoing DEIS and allowing the CPB Interchange to be evaluated by an Environmental Assessment (EA) within the limits of the I-70 East DEIS. CDOT and CCD are cognizant of the fact that Council of Environmental Quality (CEQ) regulations, CEQ 1506.01 – Limitations or Actions during the NEPA Process, establish parameters for implementing the procedural provisions of NEPA. CDOT and CCD are also aware that FHWA – Colorado Division would have limitations in approving interim actions until it can be demonstrated that a project can fulfill requirements identified in CEQ 1506.1.

As you may recall CDOT had made a prior commitment to FHWA (6/18/07 letter from Russ George to David Nichol), to work with you and your staff on a case by case basis in order to evaluate the specific issues on a project prior to requesting formal approval for the interim action.

The attached technical report describes the logic and the approach for this request providing summary documentation for complying with CEQ 1506 Regulations with respect to logical project termini, class of action and adverse effect determination.

Please feel free to contact either one of us with any questions.

Sincerely,

Randy L. Jensen
Region 6 Transportation Director

Bill Vidal
Denver Public Works Director

I concur:
David Nichol – FHWA

Date: 1/2/08

CC: J. Ortiz – Denver
J. Bemelen – CDOT
J. Paulmeno – CDOT

Attachment A
Central Park Boulevard Interim Interchange Environmental Assessment
Project Justification, Logical Termini, and Class of Action
(Responsive to 40 CFR Part 1506)

The Council on Environmental Quality (CEQ) regulations for the implementation of the National Environmental Policy Act (NEPA) state that while work on an Environmental Impact Statement such as the Interstate 70 (I-70) East Draft Environmental Impact Statement (DEIS) is in progress, interim actions shall not be undertaken "unless such action:

- 1) is justified independently of the program,
- 2) is itself accompanied by an adequate Environmental Impact Statement (EIS); and
- 3) will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives." (40 CFR 1506.1[c])

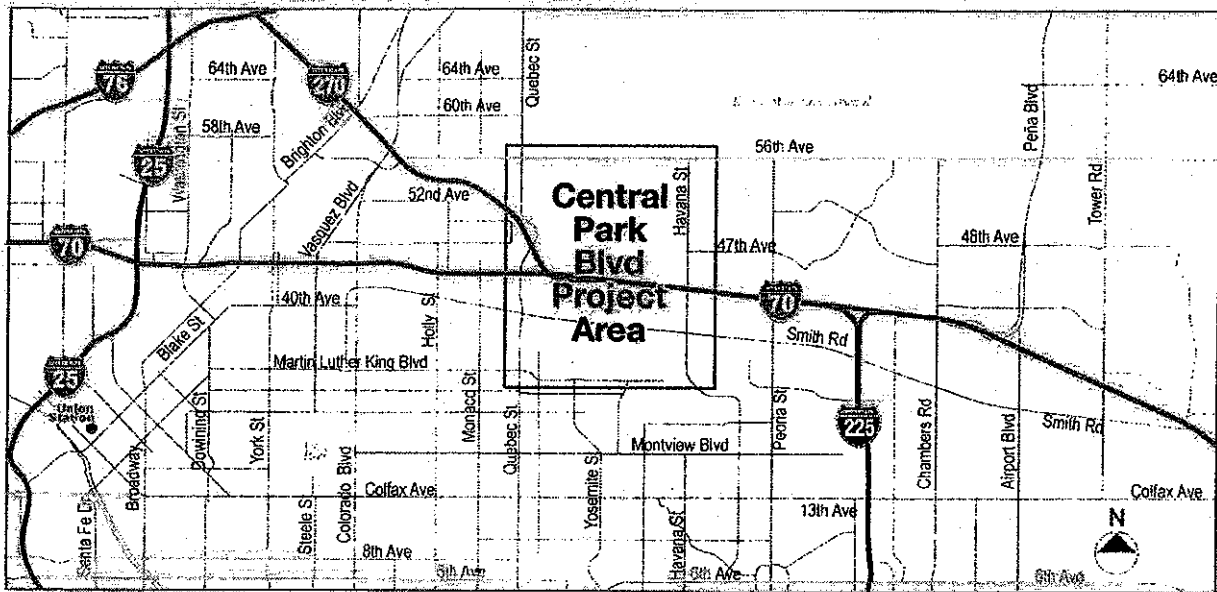
The following documentation responsive to 40 CFR 1506.1(c) is intended to support the request of the Colorado Department of Transportation (CDOT) and the City and County of Denver (Denver) that the Central Park Boulevard Interim Interchange project located in the City and Denver be found to be justified independently and not prejudicing the ultimate decision of the I-70 East EIS, and that an environmental assessment is the appropriate class of action for this interim improvement. The three points from the CEQ regulations will be summarized at the end of this attachment in Section 4.0 –Summary and Conclusions.

1.0 BACKGROUND

The I-70 East EIS is considering improvements to I-70 between I-25 and Tower Road as shown in Figure 1. Each of the alternatives being considered in the DEIS includes an interchange with the proposed Central Park Boulevard in the Stapleton Redevelopment Area. When the EIS began in 2003, the Central Park Boulevard interchange, which is called for in the Stapleton Redevelopment Area development plan, was expected to be cleared in the I-70 East Corridor (now I-70 East) EIS. As part of the on-going EIS, the potential for a new interchange at Central Park Boulevard to provide access to the Stapleton Redevelopment Area has been studied. The concept of a new interchange at Central Park Boulevard is shown in the Denver Regional Council of Governments (DRCOG) Fiscally Constrained 2035 Regional Transportation Plan and Statewide Transportation Improvement Program as a locally funded project.

The Stapleton development plan calls for construction of the CPB interchange by 2010. Recently, the uncertainty of funding for the overall I-70 East improvements and the delay in the release of the DEIS has jeopardized the ability to implement an interchange solution in that time frame. For that reason, Denver seeks to advance construction of the interchange on an interim basis through a separate NEPA action, with the full understanding on the part of Denver that the interim concept is to be compatible with all of the ultimate interchange concepts still under consideration in the DEIS, and with effort to minimize any throw-away of elements of the interim concept in later implementing the ultimate concept.

**Figure 1
Project Vicinity Map**



The interim interchange concept will be compatible with the ultimate needs of the corridor and with whichever interchange configuration(s) is(are) being considered in the DEIS.

The remainder of this letter is divided into two sections. The first section discusses application of the logical project termini criteria of 23 CFR 771.111(f) to the proposed project to demonstrate that the project limits are appropriate and that the project may be advanced independently of the overall I-70 East improvements. This addresses Section 1506.1(c)(1) as listed in the first paragraph on page 1. The first section also seeks to provide assurance that the actions being proposed will not prejudice the ultimate decisions of the I-70 EIS (as per Section 1506.1(c)(3)).

The second section addresses the need for adequate NEPA documentation (as per Section 1506.1(c)(2)) and discusses application of the class of action criteria of 23 CFR 771.115 to propose that an environmental assessment (EA) is the appropriate class of action to evaluate the Central Park Boulevard interim interchange.

2.0 LOGICAL PROJECT TERMINI AND NON-PREJUDICE OF THE I-70 EIS

CDOT and Denver believe that the Central Park Boulevard Interim Interchange project area as defined from the Quebec Street interchange to the Havana Street interchange (Milepost 279.00 to 281.00) not only constitutes an independent component of the overall I-70 East corridor, but it also results in an analysis area that is of sufficient scope to address potential benefits to and effects on the existing transportation system. Adding a new interim interchange in this area based on the assessment of potential benefits to and effects on the existing transportation system can be planned as a separate action from all other reasonably foreseeable transportation projects in the

area. This conclusion is based on the following criteria as identified in 23 Code of Federal Regulations (CFR) 771.111(f):

1. Connects logical termini and be of sufficient length to address environmental matters on a broad scope;
2. Has independent utility or independent significance (i.e., be usable and be a reasonable expenditure of funds even if no additional transportation improvements in the area are made); and
3. Does not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Each of these three criteria is addressed in the sections below, with overall conclusions addressed in Section 1.4.

2.1 Connect logical termini and be of sufficient length to address environmental matters on a broad scope

As described in Section II.A of the *FHWA Environmental Toolkit, NEPA and Transportation Decisionmaking, the Development of Logical Project Termini*:

Logical termini for project development are defined as (1) rational end points for a transportation improvement, and (2) rational end points for a review of the environmental impacts. The environmental impact review frequently covers a broader geographic area than the strict limits of the transportation improvements. In the past, the most common termini have been points of major traffic generation, especially intersecting roadways. This is due to the fact that in most cases traffic generators determine the size and type of facility being proposed. However, there are also cases where the project improvement is not primarily related to congestion due to traffic generators, and the choice of termini based on these generators may not be appropriate. (1993)

As an interchange project and new access to Stapleton Redevelopment, Central Park Boulevard has the potential to change travel patterns adjacent to the new development including mainline I-70 operations and other roadways that enter the development from the highway. As shown in Figure 2, Stapleton Redevelopment can currently be accessed from I-70 at either the Quebec Street or Havana Street interchanges. Those streets form the western and eastern boundaries of the development, respectively. Operations at both the Quebec Street and Havana Street interchanges will be affected by the presence or lack of the Central Park Boulevard interchange and as such should be included in the project study area. Given the lack of east-west connectivity via surface streets north and south of I-70, existing interchanges farther east and west of the proposed termini would be expected to receive little of the traffic generated within the Stapleton Redevelopment Area. Thus, they are not impacted by the potential interchange at Central Park Boulevard and need not be included in the analysis.

In addition to distribution of local traffic cited above, we have examined the extent to which traffic on I-70 either east of Havana Street or west of Quebec Street would be affected by

construction of the interchange. As shown in Table 1, the travel demand model shows relatively little difference in assigned volumes whether or not the Central Park Boulevard is included in the model network.

Given that the interim interchange will be constructed within either existing CDOT right of way or right of way provided by Stapleton Redevelopment, potential environmental resource effects should be limited. As such, the issue of the extent of traffic operational effects outweighs any environmental resource effects in defining the logical termini for the project.

Figure 2
Stapleton Redevelopment Area

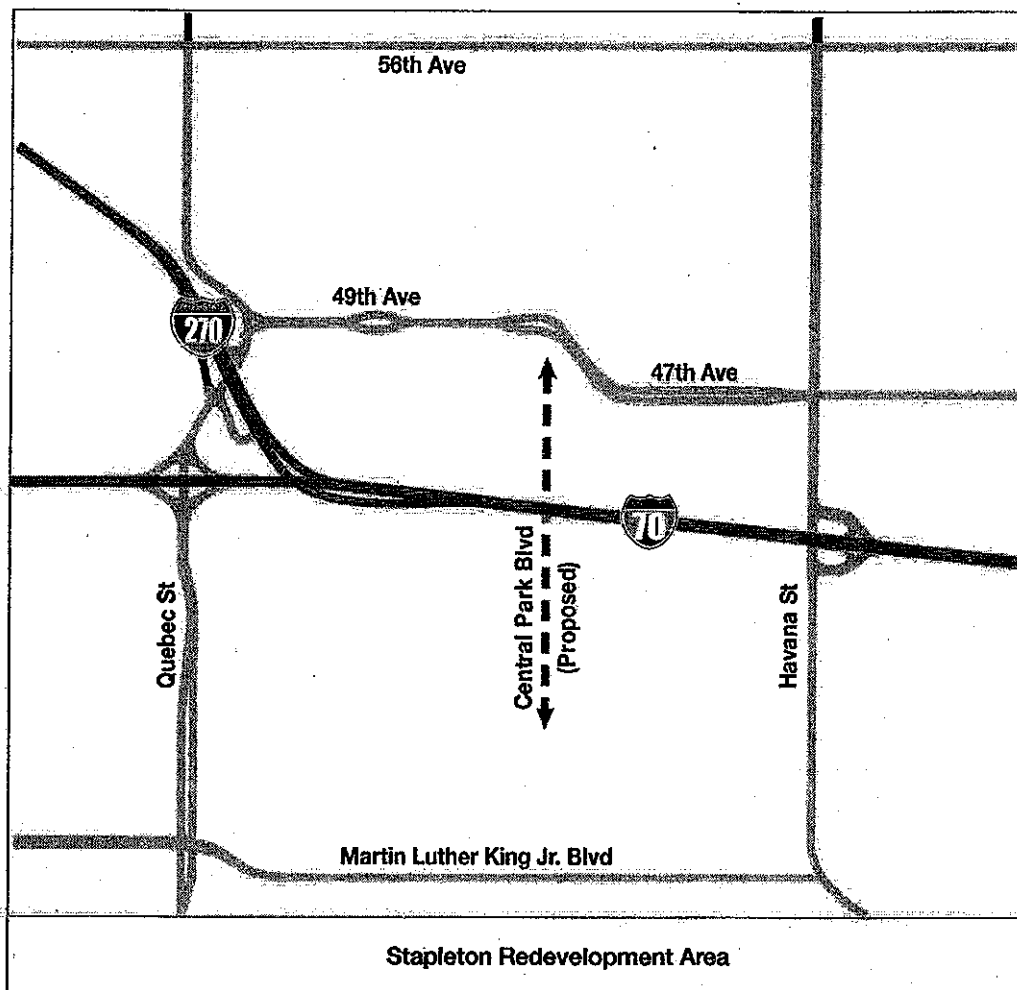


Table 1
Future (2030) Traffic Volume Comparison for the No-Action Alternative
With and Without the Central Park Boulevard Interchange

From	To	PM Peak Hour Volume		Difference	Percentage	LOS	
		Without CPB I/C	With CPB I/C			Without CPB I/C	With CPB I/C
Eastbound I-70							
Dahlia Off Ramp		1,000	850	-150	-16	F	F
CD Road between Dahlia and Monaco		1,100	1,100	0	0	-	-
Monaco On Ramp		1,300	1,150	-150	-12	F	F
Monaco	Quebec	7,000	7,500	500	7	F	F
Havana	Peoria	9,400	9,600	200	2	F	F
Peoria Off Ramp		800	905	105	12	F	F
Peoria On Ramp		2,000	1,900	-100	-5	F	F
Peoria	I-225	10,600	10,600	0	0	F	F
Westbound I-70							
I-225	Peoria	7,400	7,400	0		F	F
Peoria Off Ramp		1,900	2,000	100	5	F	F
Peoria On Ramp		1,400	1,400	0	0	F	F
Peoria	Havana	8,800	8,800	0	0	F	F
Quebec	Monaco	6,400	6,900	500	8	F	F
Monaco Off Ramp		900	1,100	200	22	F	F
CD Road between Monaco and Dahlia		1,200	1,200	0	0	-	-
Dahlia On Ramp		1,300	1,200	-100	8	F	F

2.2 Independent utility or independent significance (i.e., be usable and be a reasonable expenditure of funds even if no additional transportation improvements in the area are made)

The Central Park Boulevard Interim Interchange project will identify and evaluate an interim solution for the interchange that limits effects on the I-70 mainline while reducing traffic congestion and poor levels of service on adjacent interchanges at Quebec Street and Havana Street, congestion that will worsen as development continues in the Stapleton Redevelopment Area. The proposed project limits are based primarily on the location of the adjacent interchanges and the ability to effectively assess the benefits to and effects on the interchange operations.

The Stapleton General Development Plan and Infrastructure Master Plan call for the proposed CPB interchange as well as for significant additional transportation system improvements to support the Stapleton Development Plan. Denver is committed to construction of Central Park Boulevard as a major north/south arterial through Stapleton, as well as to the interchange with I-

70. Because of the growth in this area that is anticipated as a result of implementation of the Stapleton General Development Plan, it is perceived by CDOT and Denver that a new interchange will be needed regardless of whether or not improvements are made to I-70 consistent with the alternatives being studied in the I-70 EIS. It seems apparent to us that the increase in regional traffic generated by the new development will place an added burden on existing adjacent interchanges (Quebec Street and Havana Street) and to those streets themselves if additional Interstate highway access is not provided.

Accordingly, a key aspect of this analysis will be to develop an interim solution for the interchange that is compatible with the ultimate interchange configuration and limits building infrastructure that would need to be replaced when the ultimate interchange configuration is constructed.

2.3 Does not restrict consideration of alternatives for other reasonably foreseeable transportation improvements

The I-70 East EIS is considering alternatives to improve safety and mobility and address congestion on I-70 between I-25 and Tower Road. Its objective is to identify all necessary improvements along the corridor within the year 2030 planning horizon. In addition to the proposed interchange, other transportation improvements along the corridor are being studied in the DEIS.

Any improvements made in the project area to accommodate the interim interchange would be compatible with potential ultimate improvements recommended by the I-70 East EIS. The Central Park Boulevard EA will study the selected interchange design option for both the existing alignment and realignment alternatives. Following this analysis process will ensure that interchange and mainline improvements considered in the I-70 East DEIS are not precluded by any proposed interim action. The Central Park Boulevard EA would evaluate recommendations from the DEIS to minimize effects to the environment (e.g., Sand Creek wetlands, Sand Creek trail and greenway, and Northfield Pond Park).

2.4 Conclusions of Logical Termini Analysis

Based on the foregoing evaluation, the proposed Central Park Boulevard project meets the required logical termini tests:

- Connects logical termini and is of sufficient scope for environmental evaluation;
- Would have independent utility or independent significance (i.e., be usable and be a reasonable expenditure of funds even if no other transportation improvements are made); and
- Would not restrict consideration of alternatives for other reasonably foreseeable transportation improvements

Accordingly, CDOT and Denver conclude that the Central Park Boulevard interim interchange project can be considered to be a separate federal action from all other reasonably foreseeable transportation improvements in the project area. In addition, the project termini described in this letter are logical and define rational end points for developing alternatives and considering environmental issues.

As a result, CDOT and Denver believe the Central Park Boulevard project should be allowed to move forward independently from the I-70 East EIS. However, extensive coordination between the two studies will continue to ensure consistency and proper accommodation of all I-70 East DEIS alternatives. This coordination will also ensure continuity of mitigation commitments between the I-70 East EIS and Central Park Boulevard Interim Interchange EA. In addition, CDOT will exercise oversight of interim concept development effort through our 1601 process, and will not approve the access request unless we are confident that the Part 1506 restrictions have not been violated. In addition an Interchange Access request (IAR) will be submitted for the Interim Interchange.

3.0 CLASS OF ACTION DETERMINATION

As described in 23 CFR 771.115, three classes of action are prescribed to meet the requirements of NEPA. The three classes of action are intended to provide FHWA and sponsoring agencies with cost effective alternatives for potential federally-funded projects based on the anticipated effects and public interest.

The CEQ regulations (40 CFR Part 1506.1(c)(2)) require that "While work on a required program Environmental Impact Statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action... (2) is itself accompanied by an adequate Environmental Impact Statement..."

A major federal action (40 CFR 1508.18) is one that requires the preparation of an Environmental Impact Statement because it will result in significant impacts ("significantly" defined in 40 CFR 1508.27) to the human environment. Actions in which the significance of the environmental impact is not clearly established must undergo an EA to determine whether the impacts would be significant. If it is determined that significant impacts would occur, an EIS must then be initiated. If no significant impacts are found, a finding of no significant impact is issued and the study is considered to have met NEPA requirements. Project implementation may then proceed.

As described below, it does not appear that the Central Park Boulevard Interim Interchange would have significant environmental impacts. Accordingly, Denver proposes to prepare an EA for the interim interchange that will appropriately consider environmental data that has been developed for the I-70 East EIS. Alternative concepts that have been identified by the EIS include two design options for the ultimate interchange configuration, two alignment options west of the interchanges, and either the addition of general purpose lanes or tolled express lanes. In this part of the corridor covered by the interim interchange project area (Quebec to Havana), the ultimate interchange improvements are expected to be built either within the existing CDOT right of way or on right of way provided by Stapleton Redevelopment.

3.1 Anticipated Effects of Alternatives Being Considered

The I-70 East EIS, which is now in development by CDOT, has examined the effects of alternatives within the project area. Based on the character of the range of alternatives described

above, a cursory review of the likely effects to the resources present in the Central Park Boulevard Interim Interchange project area includes:

- Public Involvement – There is expected to be moderate interest in the project, with mostly positive support for the interchange. There may be some interest from the business owners near Havana Street that initially thought the Havana Street interchange would be closed in order to implement the Central Park Boulevard interchange. Based on the analysis to date in the I-70 East EIS, the Havana Street interchange will remain open in all build alternatives that are still being considered, so that concern should be alleviated.
- Socio-economics (including Environmental Justice and Land Use) – Minimal effects, if any, anticipated.
- Parks and Recreation (Section 4f/6f) – The Sand Creek trail and greenway and Northfields Park would be impacted by some of the ultimate alternatives, but will most likely be avoided with the interim interchange options. Impacts to these resources will be evaluated and mitigated and a Section 4(f) evaluation will be completed, if necessary.
- Right of Way – Minimal effects, if any, anticipated, with improvements located within either CDOT right of way or right of way provided by Stapleton Redevelopment.
- Traffic – Implementation of the interchange is expected to improve operations at both the Quebec Street and Havana Street interchange. Potential traffic effects on mainline I-70 between Central Park Boulevard and Havana Street will need to be analyzed and mitigated as necessary. This is described more fully in the CPB IAR.
- Air Quality – Minimal, if any, effects anticipated.
- Noise – Minimal, if any, effects anticipated. Noise modeling as part of the I-70 East EIS has not recommended any noise mitigation in this part of the corridor due to the lack of sensitive receivers.
- Historic Resources – Minimal effects, if any, anticipated.
- Archeology and paleontology – Minimal effects, if any, anticipated.
- Wildlife/Fisheries – Minimal effects, if any, anticipated.
- Threatened or Endangered Species – Minimal effects, if any, anticipated.
- Vegetation – Minimal effects, if any, anticipated.
- Floodplains and hydraulics – No substantial floodplain impacts are anticipated. Drainage issues for below-grade ramps will need to be evaluated and mitigated as necessary.
- Waters of the U.S./Wetlands – Minimal effects, if any, anticipated. The interim project will most likely not require any crossings of wetland areas.
- Cumulative Impacts – Nominal effects are anticipated from adding the interchange. By improving access in the area, this project has the potential to have a positive cumulative effect within the project area.
- Visual – Minimal effects, if any, anticipated.

In summary, few effects on environmental resources are expected, but this will be confirmed and evaluated through the interim interchange EA process.

3.2 Class of Action Analysis

Because the preliminary review of the likely effects to the resources present in the Central Park Boulevard Interim Interchange project area indicate that the interim interchange would likely have few environmental impacts, CDOT and Denver believe that the effects of this project may

be properly evaluated with an Environmental Assessment, as outlined in 23 CFR 771.115. The anticipated range of alternatives to be considered in the project was assessed to determine potential effects on resources present. Based on the criteria of context and intensity (40 CFR 1508.27), CDOT and Denver have reached the preliminary conclusion that the alternative for interim implementation would not be likely to have significant effects. However, to ensure that an adequate level of evaluation is conducted to confirm the effects are not significant, and to ensure that an appropriate level of public involvement is conducted, CDOT and Denver believe an EA is the appropriate class of action to study the Central Park Boulevard Interim Interchange project and should be prepared.

The purpose of the Central Park Boulevard Interim Interchange project is to provide early access to Stapleton Redevelopment in advance of broader I-70 improvements that minimizes effects on traffic operations and is compatible with future transportation improvements in the area. The reasonable range of alternatives has been defined by the ultimate interchange design options and the intent to minimize potential throw away of any improvements made for the interim interchange. Accordingly, the range of alternatives is expected to be small, with minimal effects to the surrounding environment since much of the required right of way is already designated for transportation uses.

Based on the range of alternatives to be considered and the anticipated effects discussed above, the CDOT and the City and County of Denver believe an environmental assessment is the appropriate class of action. If it is determined at any time during the EA process that any of the effects would meet the significance criteria, the EA would be suspended.

4.0 SUMMARY AND CONCLUSION

As noted at the beginning of this letter, the Council on Environmental Quality (CEQ) regulations for the implementation of the National Environmental Policy Act (NEPA) state that while work on an Environmental Impact Statement such as the I-70 East DEIS is in progress, interim actions shall not be undertaken unless such action meets certain requirements. Following is a summary and conclusion regarding the three points of that regulation:

1. **The interim interchange is justified independently of the program:** Denver is committed to construction of Central Park Boulevard and to its interchange with I-70. Anticipated growth in this area as a result of implementation of the Stapleton General Development Plan, cause that a new interchange be implemented regardless of whether or not improvements are made to I-70. The increase in regional traffic generated by the new development will place an added burden on existing adjacent interchanges (Quebec Street and Havana Street) and to those streets themselves if additional Interstate highway access is not provided.
2. **The interim interchange would itself be accompanied by an adequate Environmental Impact Statement (EIS):** Denver proposes to prepare an Environmental Assessment (EA) for the interim interchange that will consider environmental data that has been developed for the I-70 East EIS. CDOT will exercise oversight of interim concept development effort through our 1601 process, and will not approve the access

request unless we are confident that the Part 1506 regulations have not been violated. Few effects on environmental resources are expected, but this will be confirmed and evaluated through the interim interchange EA process. Based on the range of alternatives to be considered and the anticipated effects discussed above, the CDOT and the City and County of Denver believe an Environmental Assessment is the appropriate class of action. If it is determined at any time during the EA process that any of the effects would meet the significance criteria, the EA would be suspended.

- 3. The interim interchange will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.” (40 CFR 1506.1(c)):** The I-70 East EIS is considering alternatives to improve safety and mobility and address congestion on I-70 between I-25 and Tower Road. Any improvements made in the project area to accommodate the interim interchange would be compatible with potential ultimate improvements recommended by the I-70 East EIS. The Central Park Boulevard EA will study the selected interchange design option for both the existing alignment and realignment alternatives. Following this analysis process will ensure that interchange and mainline improvements considered in the I-70 East DEIS are not precluded by any proposed interim action. CDOT will exercise oversight of interim concept development effort through our 1601 process, and will not approve the access request unless we are confident that the Part 1506 restrictions have not been violated.

Based on the findings of this assessment as summarized above, it is the conclusion of CDOT and Denver that adherence to the CEQ regulations can be maintained while advancing the Central Park Boulevard interim interchange through the NEPA process. CDOT and Denver acknowledge the potential risks associated with this action.