

**Bridge Enterprise Board
Regular Meeting
Minutes June 15, 2017**

Chairman Gary Reiff convened the meeting at 11:16 a.m. at CDOT HQ

PRESENT: Gary Reiff, Chairman, District 3
Shannon Gifford, District 1
Ed Peterson, District 2
Karen Stuart, District 3
Kathy Gilliland, District 5
Kathy Connell, District 6
Kathy Hall, District 7
Sidny Zink, Vice Chair, District 8
Rocky Scott, District 9
Bill Thiebaut, District 10
Steven Hofmeister, District 11

ALSO PRESENT: Michael Lewis, Deputy Executive Director
Josh Laipply, Chief Engineer
Debra Perkins-Smith, Director of Transportation Development
Herman Stockinger, Government Relations Director
Paul Jesaitis, Region 1 Transportation Director
Karen Rowe, Region 2 Transportation Director
Dave Eller, Region 3 Transportation Director
Johnny Olson, Region 4 Transportation Director
Mike McVaugh, Region 5 Transportation Director
David Spector, HPTE Director
Tony DeVito, Central 70 Project Director
Kyle Lester, Director, Highway Maintenance
Ryan Rice, Director, Operations Division
Vince Rogalski, STAC Chairman
Jane Fisher, Director, Program Management
Chad Ray, Director, Emergency Management
Kathy Young, Chief Transportation Counsel

AND: Other staff members, organization representatives, the public and the news media

An electronic recording of the meeting was made and filed with supporting documents in the Transportation Commission office.

Audience Participation

Chairman Reiff stated that no members of the audience wished to address the Board of Directors.

Act on Consent Agenda

Chairman Reiff entertained a motion to approve the Consent Agenda. Director Connell moved to approve the resolution, and Director Hall seconded the motion. Upon vote of the Board the resolution passed unanimously.

Resolution #BE-17-6-1

Approval of Regular Meeting Minutes for May 18, 2017.

Resolution #BE-17-6-2

Approving the Intra-Agency Agreement between the Colorado Department of Transportation, the Colorado High Performance Transportation Enterprise and the Colorado Bridge Enterprise for the Central 70 Project.

Approved by the Transportation Commission on June 15, 2017.

WHEREAS, the General Assembly created the Colorado Bridge Enterprise ("CBE") pursuant to Section 43-4-805, C.R.S., as a government-owned business within CDOT to accelerate the repair and reconstruction of deficient bridges further defined as structures that are "poor"; and

WHEREAS, using the criteria outlined in the FASTER legislation, 128 bridges were originally determined to be eligible for the CBE program and the elevated portion of I-70 East corridor on a bridge, known as the Viaduct, was included on that list; and

WHEREAS, on February 19, 2016 the Transportation Commission approved a governance structure between CDOT, CBE and HPTE in which CBE is the managing partner of the Central 70 Project ("Project") and CBE and HPTE will enter into an anticipated agreement ("Project Agreement") with a private partner ("Developer"); and

WHEREAS, in CBE Resolution #BE-15-2-3, the CBE Board of Directors anticipated that CBE will be eligible to contribute up to \$850 million to the Project; and

WHEREAS, also in CBE Resolution #BE-15-2-3, the CBE Board of Directors, citing Transportation Commission Resolution #TC-15-2-5, directed staff to pursue delivery of the Project using a Design Build Finance Operate Maintain procurement process because the ability of this model to transfer more risk to the private sector and to offer a more predictable long term cost schedule through the structure of availability payments, minimizing future contingency and cost overrun exposure to CDOT; and

WHEREAS, CDOT and CBE have requested HPTE's involvement in the Project for a variety of benefits that CDOT will receive from implementing tolling on the Project, including, but not limited to, allowing CDOT to better manage congestion over the long term on I-70 and providing the traveling public with the choice of a new travel lane with more reliable and efficient travel times; and

WHEREAS, the Transportation Commission supports the Project and recognizes the benefits that CDOT and the State will receive from replacing the Viaduct and implementing tolling on the Project; and

WHEREAS, the Transportation Commission, the HPTE Board of Directors and the CBE Board of Directors all reviewed and approved the issuance of the Final Request for Proposals on the Central 70 Project during March 2017 board meetings; and

WHEREAS, CDOT, HPTE, and CBE now desire to enter into a Central 70 Intra-Agency Agreement ("Central 70 IAA" or "IAA") to further define their respective roles and responsibilities with respect to funding the construction of the Project, management of the Project and cooperation on the operation and maintenance of the Project and financial obligations to each party with respect to the Project; and

WHEREAS, in an effort to assist CDOT and HPTE with financing the Project, CBE intends to enter into certain financing agreements, pursuant to which CBE will pledge amounts received by CBE from its bridge surcharge fee; and

WHEREAS, CBE currently anticipates that a portion of the financing for the Project costs could include 1) a loan of additional funds under a loan agreement between the selected developer and the U.S. Department of Transportation, by and through its Transportation Infrastructure Finance and Innovation Act ("TIFIA") Joint Program Office (the "TIFIA Loan"), 2) an issuance of Private Activity Bonds through CBE as conduit issuer on behalf of the developer (the "Bonds"), which together with the TIFIA Loan constitutes the "Financing"; which Financing, to consist of one or more closings, will fund the payment of certain costs and expenses of the planning, design, engineering, acquisition, installation or construction of the Project, and other lawful expenses and costs related thereto; and

WHEREAS, specifically with regard to CBE, CBE will contribute \$142 million to Project pre-development costs and will contribute \$261 million in Milestone Payments to the Developer during the construction period per the terms of the Project Agreement; and

WHEREAS, contemplating that other unanticipated costs may arise during the construction period for items like change orders or supervening events, the Central 70 IAA includes provisions to allocate these incremental costs amount CDOT and CBE using an allocation based on CBE-eligible costs to total costs; and

WHEREAS, under the Central 70 IAA, CDOT will be primarily responsible for administering the Project Agreement with the Developer during the construction period and these responsibilities are more fully explained in the IAA and CBE will have certain financial budgeting and disclosure obligations; and

WHEREAS, the Central 70 IAA outlines the operations period of the Project and describes the costs that will be incurred by CDOT, HPTE, and CBE during the operating period and the responsibility among CDOT, HPTE and CBE for these costs and the IAA further describes each party's responsibilities in terms of administering the Project Agreement during the operating period; and

WHEREAS, under the IAA, during the operations period, CBE will be 100 percent responsible for the Capital Performance Payment which is the payment that repays the Developer for the debt and equity it raised to build the Project; and

WHEREAS, the total contribution by CBE to the Project has been sized to comply with CBE's funding commitment to the Project approved by the CBE Board of Directors in August 2015,

absent CBE's proportionate responsibility for supervening events and other project changes; and

WHEREAS, the Central 70 IAA allocates responsibility for funding various termination amounts between CDOT, HPTE and CBE, both prior to and after financial close, depending on the situation that gives rise to a termination; and

WHEREAS, the Central 70 IAA allocates responsibility for funding various termination amounts between CDOT, HPTE and CBE, both prior to and after financial close, depending on the situation that gives rise to a termination; and

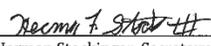
WHEREAS, pursuant to Sections 43-4-805(4), C.R.S., the Transportation Commission may authorize the transfer of money from the state highway fund to CBE to defray expenses of HPTE; and

WHEREAS, the Central 70 IAA allows for CBE to request financial support from the Transportation Commission in the form of a CDOT Backup Loan to assist CBE in fulfilling or satisfy any of its obligations under the Project in the event revenues, together with any reserves, are insufficient, or projected to be insufficient, to satisfy HPTE's obligations; and

WHEREAS, CBE acknowledges that the Transportation Commission is not required by the Central 70 IAA to make any such loan, and that any determination by the Transportation Commission to make, and allocate funds for, any such loan shall be in the sole discretion of the Transportation Commission; and

WHEREAS, any loan that CDOT provides CBE under the IAA shall, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, constitute a loan from the Transportation Commission to HPTE and shall not be considered a grant for purposes of Section 20(2)(d) of Article X of the State Constitution.

NOW THEREFORE BE IT RESOLVED, the Colorado Bridge Enterprise Board hereby approves and authorizes CBE to enter into the Central 70 Intra-Agency Agreement with CDOT and HPTE in substantially the form presented to the CBE Board and authorizes the CBE Director to execute the Central 70 IAA with such changes therein and additions thereto, not inconsistent with this Resolution, as are approved by the CBE Director (whose signature thereon shall constitute conclusive evidence of such approval).


Herman Stockinger, Secretary
Bridge Enterprise Board of Directors

6-15-17
Date

Resolution #BE-17-6-3

Chairman Reiff entertained a motion to approve the Budget Supplement. Director Thiebaut moved to approve the resolution, and Director Connell seconded the motion. Upon vote of the Board the resolution passed unanimously.

Resolution #BE-17-6-4

Resolution #BE-17-6-4

Acknowledgement of New Bridge Assets Funded by Bridge Enterprise and Completed in Fiscal Year 2017

Approved by the Transportation Commission on June 15, 2017.

WHEREAS the General Assembly created the Bridge Enterprise as a government-owned business within CDOT, pursuant to 43-4-805 C.R.S.; and

WHEREAS, PURSUANT TO 43-4-805 C.R.S., the Bridge Enterprise is to operate as a government-owned business within the Department of Transportation and shall constitute an "enterprise" for the purposes of Section 20 of Article X of the Colorado Constitution so long as the Bridge Enterprise retains authority to issue revenue bonds and receives less than ten percent (10%) of its total annual revenue in grants, as defined in C.R.S. 24-77-102(7), from all State and local governments combined; and

WHEREAS, the business purpose of the Bridge Enterprise is to finance, repair, reconstruct, and replace designated bridges in the state; and

WHEREAS, Section 43-4-805(5)(f), C.R.S. authorizes the Bridge Enterprise Board to enter into agreements with the Transportation Commission, under which the Bridge Enterprise agrees to finance, repair, reconstruct, replace, and, if any given agreement so specifies, maintain designated bridges as specified in the agreements; and

WHEREAS, under an old methodology, the Bridge Enterprise Board previously accepted ownership of existing structures listed in Attachment A, Table 1 that were transferred via Board approved resolution from CDOT to Colorado Bridge Enterprise; and

WHEREAS, the Bridge Enterprise Board hereby acknowledges that the previously transferred existing structures listed in Attachment A, Table 1 have been demolished and taken-out-of-service and any remaining book-value will be removed from CDOT accounting records; and

WHEREAS, under a new methodology the Bridge Enterprise no longer accepts transfers of an existing CDOT structure that is programmed to be replaced in advance; and utilizes a policy that provided FASTER funding directly to the planned replacement structures and newly assigned Bridge IDs listed in Attachment A, Table 2.

NOW THEREFORE BE IT RESOLVED, the Bridge Enterprise Board hereby accepts (i) maintenance responsibility for and (ii) ownership for accounting purposes of the new bridge assets with their new bridge identification numbers as itemized on Attachment A, Table 1 and Table 2.



Herman Stockinger, Secretary,
Bridge Enterprise Board of Directors

6-15-17

Date

Adjournment

Chairman Reiff asked if there were any more matters to come before the Bridge Enterprise Board of Directors. Hearing none, Chairman Reiff announced the adjournment of the meeting at 11:36 a.m.