

Resolution – #TC19-09-03

Approving five (5) Memorandum of Understandings with the Federal Highway Administration, the Colorado Department of Transportation and the High Performance Transportation Enterprise for the I-25 South Project (Monument to Castle Rock) (“The Gap”); the Central 70 Project; the I-25 North Project (Johnstown to Fort Collins); the C-470 Project; and the I-70 Mountain Express Lane (Westbound) Project.

Approved by the Transportation Commission on September 19, 2019.

WHEREAS, the Transportation Commission is responsible, pursuant to § 43-1-106(8), C.R.S., for formulating the general policy of the Colorado Department of Transportation (“CDOT”); and

WHEREAS, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”), pursuant to C.R.S. § 43-4-806 as a government-owned business within the Colorado Department of Transportation (“CDOT”) to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system; and

WHEREAS, HPTE is authorized, pursuant to C.R.S. § 43-4-806(2)(c)(I) to impose user fees on the travelling public for the privilege of using surface transportation infrastructure, and is further authorized pursuant to C.R.S. § 43-4-806(2)(c)(III) to contract with any governmental or non-governmental source of funding for loans to be used in support of HPTE’s functions; and

WHEREAS, CDOT, in partnership with HPTE, is undertaking several surface transportation projects (the “Projects”) across the State which generally consist of the completion of new tolled express lanes; and

WHEREAS, pursuant to 23 U.S.C. § 129(a)(1)(B), federal participation in the Projects is permitted for the initial construction of one (1) or more toll lanes that increase the capacity of a highway if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction; and

WHEREAS, 23 U.S.C. § 129(a) further sets forth certain additional conditions applicable to toll projects receiving federal participation, including, inter alia, limitations on the use of revenues, certain audit requirements, and equal access for over-the-road buses and public transportation buses; and

WHEREAS, 23 U.S.C. 166(b)(4) provides that a State agency may allow vehicles not otherwise exempt pursuant to 23 U.S.C. 166(b) to use a HOV facility by paying a toll; and

WHEREAS, CDOT desires to enter into Memorandum of Understandings (“MOU”) with the Federal Highway Administration (“FHWA”) and HPTE to memorialize CDOT’s commitment to comply with the requirements of 23 U.S.C. § 129(a) and 23 U.S.C. 166(b)(4), where applicable and as amended, as an ongoing condition to federal participation in the Projects.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the MOUs in the form presented and authorizes CDOT’s Executive Director or her designee to execute the MOUs, with such revisions or modifications, not inconsistent with this Resolution, as the CDOT Executive Director may determine to be necessary or appropriate.

By Herman F. Stockinger III
Herman Stockinger, Secretary
Transportation Commission of Colorado

9-19-19
Date of Approval