

Resolution #TC-2022-06-13

Approving First Amendment to Intra-Agency Agreement Between CTIO and CDOT regarding Floyd Hill Revenue Gap Study

Approved by the Transportation Commission on June 16, 2022.

WHEREAS, the Transportation Commission is charged with formulating the general policy concerning the management, construction and maintenance of public highways and other transportation systems in the State;

WHEREAS, under § 43-1-106 (8), C.R.S., the Transportation Commission promulgates and adopts all budgets for the Colorado Department of Transportation (“CDOT”) and state transportation programs;

WHEREAS, CDOT is an agency of the State authorized under § 43-1-105, C.R.S., to plan, develop, construct, coordinate, and promote an integrated transportation system in cooperation with federal, regional, local, and other state agencies;

WHEREAS, under § 43-1-110, C.R.S., the executive director of CDOT, is authorized to execute certain agreements on behalf of CDOT;

WHEREAS, the High Performance Transportation Enterprise (“HPTE”) was created under § 43-4-806(2), C.R.S. and operates as a government-owned business within CDOT;

WHEREAS, under § 43-4-806 (6) (g), C.R.S., HPTE is empowered to enter into contracts or agreements with any public entity to facilitate a public-private partnership, including, but not limited to, an agreement in which the Enterprise, on behalf of CDOT, provides services in connection with a surface transportation infrastructure project;

WHEREAS, HPTE is further empowered, under § 43-4-806 (6) (h), C.R.S., to make and enter into all other contracts and agreements, including intergovernmental agreements under § 29-1-103, C.R.S., that are necessary or incidental to the exercise of its powers and performance of its duties;

WHEREAS, the business purpose of HPTE, as provided for in § 43-4-806 (2) (c), C.R.S. is to pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects, which HPTE may agree to complete for CDOT under agreements;

WHEREAS, the Floyd Hill to Veterans Memorial Tunnels project is on I-70 West of Denver Metro in Clear Creek and Jefferson Counties. This corridor is critical for commuters, recreational travelers, and commerce and is the primary east-west route through Colorado. The project is currently only moving forward with the Canyon Viaduct Alternative, which is the preferred alternative in the Environmental Assessment completed for the project;

WHEREAS, the Floyd Hill Project is currently projected to cost upwards of \$700 million dollars. CDOT has identified \$460 million in total funding, including \$135 million in SB17-267 strategic funds, and estimated enterprise financing. It is anticipated that the Bridge and Tunnel Enterprise

(BTE) and HPTE will partner to finance approximately \$325 million in project costs based on the results of the Floyd Hill Funding Gap Study and preliminary BTE eligibility reviews. This total includes a maximum of \$260 million in BTE-eligible project scope to address two deficient bridges based on preliminary cost estimates;

WHEREAS, CDOT and HPTE have entered into an Intra-Agency Agreement (IAA) to document the substantive terms of how CDOT and HPTE work together and allocate rights and responsibilities on shared projects. This IAA states because of HPTE's expertise and legal powers, as well as HPTE's experience in procuring innovative financing, CDOT desires to provide funding to HPTE for the procurement of a TIFIA Loan for the Floyd Hill project.

WHEREAS, in May of 2020, HPTE embarked on a Floyd Hill Funding Gap Study with the assistance of the I-70 Collaborative Effort to determine how much HPTE could contribute to the project. The study assumed a full-time Express Lane on the Floyd Hill project and on the continuation of both the eastbound and westbound Mountain Express Lane day and hour restrictions. The Funding Gap Study finished earlier this year and identified that HPTE may be able to contribute an estimated \$60 and \$80 million through toll-backed revenue bonds or around an estimated \$165 million through a TIFIA loan. Based on the results of the Funding Gap Study, CTIO plans to pursue a TIFIA loan for the Floyd Hill project through the USDOT Build America Bureau (BAB);

WHEREAS, based on the initial study HPTE and CDOT have agreed to amend the IAA to allow HPTE to commence the contracting process with a traffic and revenue advisor to begin an investment-grade traffic and revenue study, hire financial advisors to assist with the TIFIA loan procurement, and hire legal counsel to negotiate the loan between CTIO and the BAB;

WHEREAS, the Transportation Commission has reviewed the First Amendment to the CDOT and HPTE Intra-Agency Agreement; and

NOW THEREFORE BE IT RESOLVED, the Transportation Commission of Colorado approves and authorizes CDOT to enter the First Amendment to the IAA, in substantially the same form as reviewed by the Transportation Commission with no changes to the commercial terms, to facilitate the procurement of a TIFIA Loan for the Floyd Hill Project.

Herman
Stockinger

Digitally signed by
Herman Stockinger
Date: 2022.06.21
10:07:43 -06'00'

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date _____