

**Resolution # TC-15-10-4**

Approving the Second Amendment to Intra-Agency Agreement between CDOT and HPTE for the US 36 Concession Project.

**Approved by the Transportation Commission on October 15, 2015**

**WHEREAS**, the Transportation Commission is responsible, pursuant to Section 43-1-106(8), C.R.S., for formulating the general policy with respect to the management, construction and maintenance of public highways and other transportation systems in the State; and

**WHEREAS**, the Transportation Commission's approval is required for Colorado Department of Transportation ("CDOT") intergovernmental agreements that may involve more than \$750,000; and

**WHEREAS**, the Colorado High Performance Transportation Enterprise ("HPTE"), negotiated and entered into a public private partnership concession agreement ("Concession Agreement") dated June 27, 2013, with Concessionaire Plenary Roads Denver, Inc., for the design, construction, financing, operation and maintenance of the U.S. 36 corridor between Denver and Boulder and the I-25 Express Lanes (collectively US 36 Project); and

**WHEREAS**, the Transportation Commission previously approved an Intra-Agency Agreement dated June 27, 2013 ("Original Agreement"), between CDOT and HPTE for the US 36 Project and a first amendment to the Original Agreement dated October 17, 2013 ("First Amendment").

**WHEREAS**, in both the Original Agreement and the First Amendment, CDOT agreed, among other things, to perform the CDOT Service Funding Obligations, provide for a CDOT Backup Loan to HPTE, and fulfill the CDOT Performance Obligations, all relating to the Concession Agreement and the US 36 Project; and

**WHEREAS**, the Colorado Office of the State Auditor undertook a performance audit of the Concession Agreement and issued its audit report to members of the Colorado Legislative Audit Committee on March 11, 2015; and

**WHEREAS**, in its audit report, the State Auditor recommended, in part, that the HPTE should work with CDOT to develop a comprehensive monitoring framework and systematic mechanisms for managing and monitoring the Concessionaire during the 50-year operations phase of the Concession Agreement and recommended that HPTE execute a project-specific agreement for specifying in detail HPTE's, CDOT's, and their

contractors' respective roles and responsibilities for monitoring the 50-year Concession Agreement operations phase; and

**WHEREAS**, the attached Second Amendment to the Intra-Agency Agreement between CDOT and HPTE for the US 36 Concession Project outlines and memorializes HPTE's and CDOT's plan to manage and monitor the 50-year operations phase of the of the Concession Agreement.

**NOW THEREFORE BE IT RESOLVED**, the Transportation Commission hereby approves the Second Amendment to the Intra-Agency Agreement between CDOT and HPTE for the US 36 Concession Project and authorizes CDOT's Executive Director to sign the amendment on behalf of CDOT.

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

10-20-15  
Date