



DATE: February 7, 2014
TO: Transportation Commission of Colorado
FROM: Michael Cheroutes, Director of High Performance Transportation Enterprise
SUBJECT: Compliance Agreement required by TIFIA for U.S. 36 Concession Project

In connection with the U.S. 36 Concession Project, the High Performance Transportation Enterprise (HPTE) is near financial close with the Concessionaire, Plenary Roads Denver LLC (Concessionaire), and the Concessionaire's lenders. The Concessionaire anticipates receiving a TIFIA loan from the U.S. Department of Transportation (TIFIA Lender) at close. The TIFIA Lender has requested that the Colorado Department of Transportation (CDOT) and HPTE enter into a compliance agreement (Compliance Agreement), pursuant to which CDOT and HPTE will provide certain assurances to, and make certain agreements with, the TIFIA Lender regarding the U.S. 36 Concession Project. In general, the proposed umbrella document simply repeats (in favor of the TIFIA Lender) what CDOT/HPTE have already authorized in other agreements. We have made sure CDOT obligations are not enlarged in other respects.

The Compliance Agreement is included for workshop discussion by the Transportation Commission in February and for immediate consideration on the Consent Agenda for final action.

Resolution #TC-

Approving the Compliance Agreement required by TIFIA Lender for U.S. 36 Concession Project.

Approved by the Transportation Commission on: _____

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

2-WHEREAS the Colorado High Performance Transportation Enterprise (HPTE), in partnership with CDOT, is in final financial close negotiations with its preferred proposer, Plenary Roads Denver LLC, 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

4-WHEREAS when constructed, the US 36 project will contain two general purpose lanes and one managed lane in each direction between Denver and Boulder; and

5-WHEREAS the Transportation Commission supports the US 36 project and recognizes the benefits of this project, which include, but are not limited to, encouraging carpooling and transit use, reducing vehicle emissions, reducing congestion, and improving the safety, capacity, and accessibility of the surface transportation system; and

6-WHEREAS in order to finalize the concession agreement between HPTE and Plenary Roads Denver, and reach financial close, Plenary Roads Denver LLC must receive a TIFIA loan from the U.S. Department of Transportation (TIFIA Lender); and

7-WHEREAS the TIFIA Lender has requested that CDOT and HPTE enter into a supplemental undertaking that has been labeled a “Compliance Agreement”; and

8-WHERAS the Transportation Commission has been briefed on the scope and requirements of the Compliance Agreement and understands it will require CDOT to provide certain assurances to, and agreements with, TIFIA Lender, including assurances and agreements related to the compliance with certain agreements already authorized by CDOT and applicable laws related to the US 36 project.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the Compliance Agreement between CDOT, HPTE, and the United States Department of Transportation required for the US 36 Project Concession Agreement financial close and authorizes CDOT’s Executive Director to sign the

Compliance Agreement and any required certificates referenced therein on behalf of CDOT.

COMPLIANCE AGREEMENT

This COMPLIANCE AGREEMENT (“**Compliance Agreement**”) dated [•], 2014, is made by and among the COLORADO DEPARTMENT OF TRANSPORTATION, an agency of the State of Colorado (“**CDOT**”), COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE, a government-owned business and a division of CDOT (“**HPTE**”), and together with CDOT, the “**Compliance Parties**” and each a “**Compliance Party**”) and UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the “**TIFIA Lender**”).

RECITALS

WHEREAS, Plenary Roads Denver LLC (the “**Concessionaire**”) has entered into that certain Concession Agreement for US 36 and I-25 Managed Lanes, dated June 27, 2013, as amended pursuant to the first amendment to the Concession Agreement dated October 4, 2013, as amended pursuant to the second amendment to the Concession Agreement dated December 27, 2013 and amended and restated on [•], 2014, with HPTE (the “**Concession Agreement**”); and

WHEREAS, Compliance Parties have entered into the following additional agreements, among others, relating to the U.S. 36 Phase 2 Project:

(i) “**Project Oversight Agreement**” means that certain Federal Highway Administration High Performance Transportation Enterprise (HPTE) Project Oversight Agreement for the Public Private Partnership to Design, Build, Finance and Operate and Maintain US 36 Express Lanes Phase II, dated as of November 15, 2013, among HPTE, CDOT and the Federal Highway Administration Colorado Division Office;

(ii) “**HPTE Direct Agreement**” means that certain Direct Agreement, dated as of [•], 2014 among HPTE, the Concessionaire and The Bank of New York Mellon Trust Company, N.A. in its capacity as security trustee;

(iii) “**HPTE-CDOT IGA**” means that certain HPTE US36 Concession Project Intra-Agency Agreement dated June 27, 2013, between HPTE and CDOT, as amended by the First Amendment dated October 17, 2013; and

(iv) “**HPTE-CDOT-RTD IGA**” means that certain US 36 Concession Project Intergovernmental Agreement dated June 13, 2013, between HPTE, CDOT, and the Regional Transportation District, as amended by the US 36 Concession Project Intergovernmental Agreement Amendment dated November 7, 2013.

WHEREAS, pursuant to the terms and provisions of the TIFIA Loan Agreement, dated as of [•], 2014, by and among the TIFIA Lender, Plenary Roads Finco LP (the “**Borrower**”), the Concessionaire and other affiliates of the Concessionaire party thereto (the “**TIFIA Phase 2 Loan Agreement**”), the TIFIA Lender has agreed to make a loan (the “**TIFIA Phase 2 Loan**”) in an aggregate principal amount not to exceed \$60,000,000, the proceeds of which are to be used to pay a portion of the Eligible Project Costs (as defined in TIFIA Phase 2 Loan

Agreement) related to the U.S. 36 Phase 2 Project pursuant to the application for TIFIA credit assistance; and

WHEREAS, the completion and opening to revenue service of the Phase 2 Managed Lanes is essential to meeting the public policy goals of the TIFIA Lender;

WHEREAS, on [•], 2014, the United States Secretary of Transportation approved TIFIA credit assistance for the U.S. 36 Phase 2 Project in the form of a direct loan in an aggregate principal amount not to exceed \$60,000,000; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions set forth in the TIFIA Phase 2 Loan Agreement; and

WHEREAS, it is a condition to the consummation of the transactions contemplated by the TIFIA Phase 2 Loan Agreement that HPTE, CDOT and the TIFIA Lender enter into this Compliance Agreement to provide certain assurances and agreements, as further described below.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HPTE, CDOT and the TIFIA Lender (each, a “Party”) hereby agree as follows:

Section 1. Definitions.

All capitalized terms not defined herein shall have the meanings ascribed to them in the Concession Agreement. In addition, the terms set forth below shall have the following meanings:

“**Compliance Party Agreements**” means the HPTE-CDOT IGA, this Compliance Agreement and the Project Oversight Agreement.

“**Compliance Party Payment Obligations**” means all obligations of each Compliance Party to pay money pursuant to the terms of each Compliance Party Agreement, subject to any conditions precedent to, limitations on, and other conditions to such obligations set forth in the Compliance Party Agreements.

“**TIFIA Agreements**” means the TIFIA Phase 2 Loan Agreement and this Compliance Agreement.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof” and other words of similar import refer to this Compliance Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. Whenever any Compliance Party’s knowledge is implicated in this Compliance Agreement or the phrase “to any Compliance Party’s knowledge” or a similar phrase is used in this Compliance Agreement, the Compliance Party’s knowledge or such

phrase(s) shall be interpreted to mean to the best of the Compliance Party's knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person's successors and permitted assigns. Unless the context shall otherwise require, references to sections, subsections, schedules, exhibits, appendices and provisions are to the applicable sections, subsections, schedules, exhibits, appendices and provisions of this Compliance Agreement. The headings or titles of this Compliance Agreement and its sections, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 20 and signed by a duly authorized representative of such party.

Section 3. Compliance with Laws; Permits.

(a) To the extent applicable to each of the Compliance Parties in connection with the implementation of the Phase 2 Work by the Concessionaire pursuant to the terms of the Concession Agreement, each Compliance Party agrees to comply with the applicable terms and conditions set forth in (i) all applicable federal and State laws, (ii) the policies and procedures promulgated by the Federal Highway Administration (the "FHWA") and (iii) the Project Oversight Agreement. In addition to the TIFIA Phase 2 Loan, it is expected that other sources of State and federal funds will be provided for the U.S. 36 Phase 2 Project.

(b) Each Compliance Party represents and warrants that all State or federal permits necessary to commence construction of the Phase 2 Work have been received (or will be received by the Commencement Date) and approved by the appropriate Governmental Authorities. In the event that a permit is required after the date hereof in connection with the implementation of the Phase 2 Work by the Concessionaire, the Compliance Parties shall exercise oversight over the Concessionaire in connection with its acquisition of such permit pursuant to the terms of the Concession Agreement. Pursuant to 23 U.S.C. § 116(a), CDOT has a duty to maintain or cause the U.S. 36 Phase 2 Project to be maintained, in connection with the satisfaction of such obligation, CDOT agrees to exercise oversight of the Concessionaire's performance of the obligations described in this Section 3(b).

Section 4. Compliance with Agreements.

(a) Each Compliance Party agrees to comply with its respective obligations set forth in the Compliance Party Agreements and, to the extent applicable, to perform all of its Compliance Party Payment Obligations. HPTE agrees to comply with its obligations in respect of the HPTE-CDOT IGA and the HPTE-CDOT-RDT IGA, including any Compliance Party Payment Obligations thereunder, as described in Section 4.5 of the HPTE Direct Agreement.

(b) Within five (5) Business Days after such Compliance Party learns of the occurrence thereof, such Compliance Party shall give the TIFIA Lender notice of the filing of

any actual litigation, suit or action, or the delivery to such Compliance Party of any written claim which could reasonably be expected to materially and adversely affect any appropriation or transfer of funds as required to comply with such Compliance Party's Compliance Party Payment Obligations.

(c) Pursuant to the TIFIA Phase 2 Loan Agreement and subject to all terms and conditions thereof, the TIFIA Lender agrees to make the TIFIA Phase 2 Loan in an amount up to \$60,000,000 to fund a portion of the Eligible Project Costs as set forth therein.

Section 5. Conditions Precedent. Notwithstanding anything in this Compliance Agreement to the contrary, this Compliance Agreement shall not become effective until the following conditions precedent shall have been satisfied:

(a) CDOT shall have certified as to debarment or suspension of each of the third party contractors that have been retained by it or HPTE at any tier in connection with the Phase 2 Work (excluding, for the avoidance of doubt, the Concessionaire or any of the Sub-Contractors), in accordance with the provisions of Executive Orders No. 12549 and 12689, "Debarment and Suspension", 31 U.S.C. 6101, and applicable regulations on Debarment and Suspension at 49 C.F.R. Part 29.

(b) Each Compliance Party shall have delivered its initial Compliance Party Authorized Representative certificate pursuant to Section 11 hereof.

(c) Each Compliance Party shall cause its counsel to deliver an opinion as to the due execution, validity and enforceability of the Compliance Party Agreements to which it is a party, except for the Project Oversight Agreement, in form and substance satisfactory to the TIFIA Lender.

(d) The representations and warranties of each Compliance Party set forth in Section 6 of this Compliance Agreement shall be true and correct in all material respects.

(e) The Compliance Parties shall deliver to the TIFIA Lender evidence satisfactory to the TIFIA Lender of the availability and, if not currently available, a description in reasonable detail of the procedure for obtaining, all funding required to be provided to pay all amounts payable to the Concessionaire under the terms of the Concession Agreement.

(f) Each Compliance Party shall have delivered such other agreements, documents, instruments, opinions and other items reasonably required by, and in each case in form and substance satisfactory to, the TIFIA Lender.

Section 6. Representations and Warranties of the Compliance Parties. Each Compliance Party hereby represents and warrants that as of the date of the execution of this Compliance Agreement:

(a) Each Compliance Party is duly organized under the laws of the State of Colorado, has full legal right, power and authority to enter into the Compliance Party Agreements to which it is a party and to carry out and consummate all transactions contemplated

by such Compliance Party Agreements and has duly authorized the execution, delivery and performance of such Compliance Party Agreements.

(b) Each Compliance Party Agreement to which such Compliance Party is a party (i) has been duly authorized, executed and delivered by such Compliance Party, and (ii) is in full force and effect as of the effective date of this Compliance Agreement.

(c) Upon execution and delivery of this Compliance Agreement, no Compliance Party is in default of any of the terms of or its obligations under any of the Compliance Party Agreements.

(d) Each Compliance Party is an agency (or division of an agency, as the case may be) of the State of Colorado and is authorized to execute, deliver and perform its obligations under each Compliance Party Agreement to which it is a party.

(e) The execution and delivery by each Compliance Party of the Compliance Party Agreements to which such Compliance Party is a party, the consummation of the transactions herein described and the fulfillment of or compliance with the terms and conditions of the Compliance Party Agreements will not, in any material respect, conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) by such Compliance Party under any agreement or instrument by which it is bound which is material to the performance of its obligations under such Compliance Party Agreements, or any provision of applicable law or administrative rule or regulation, any applicable court or administrative decree or order, or any contract to which such Compliance Party is a party or by which it or its properties are bound, any of which is material to the performance of its obligations under such Compliance Party Agreements.

(f) Each Compliance Party has obtained, maintains in full force and effect, and has complied in all material respects with, all necessary governmental authorizations and consents and approvals of any other Person that are required for such Compliance Party to execute, deliver and perform its obligations under the Compliance Party Agreements to which such Compliance Party is a party and no Compliance Party has any reason to believe that any of the governmental authorizations so expected to be obtained by it in the ordinary course of business by the time they are necessary will not be so obtained.

(g) Consistent with the legal opinions rendered by the Office of Attorney General of the State of Colorado, each of the Compliance Party Agreements is the legal, valid and binding obligation of each Compliance Party party thereto, enforceable against such Compliance Party in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

(h) There is, to the knowledge of each Compliance Party after reasonable inquiry and investigation, no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other governmental authority, pending or threatened that would materially and adversely affect the performance of such Compliance Party's obligations under the Compliance Party Agreements to which it is a party. No Compliance Party is in

default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default (or the consequences thereof) would be likely to materially and adversely affect the performance of such Compliance Party's obligations under the Compliance Party Agreements to which it is a party.

(i) Each Compliance Party has complied with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.) with respect to the Phase 2 Work, and true and accurate copies of the final environmental impact statement (issued pursuant to 42 U.S.C. § 4332(2)(C)) have been provided to the TIFIA Lender.

Section 7. Representations and Warranties of the TIFIA Lender. The TIFIA Lender represents and warrants that:

(a) The TIFIA Lender has all requisite power and authority to make the TIFIA Phase 2 Loan and to perform all transactions contemplated by the TIFIA Agreements.

(b) The TIFIA Agreements have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable against the TIFIA Lender in accordance with their terms.

(c) The officers of the TIFIA Lender executing each of the TIFIA Agreements are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

(d) The execution and delivery by the TIFIA Lender of the TIFIA Agreements and performance by the TIFIA Lender of its obligations thereunder does not conflict with any applicable laws, governmental authorizations, consents or approvals applicable to the TIFIA Lender as of the effective date of this Compliance Agreement.

Section 8. Accounting and Audit Procedures; Reports and Records.

(a) Each Compliance Party shall (i) establish fiscal controls and accounting procedures for the Phase 2 Work as required for federal-aid projects and in accordance with the Project Oversight Agreement, so that audits may be performed to ensure compliance with and enforcement of this Compliance Agreement and (ii) use generally accepted accounting principles for state and local governments as prescribed by the Governmental Accounting Standards Board.

(b) The TIFIA Lender shall have the right to conduct from time to time independent financial and compliance audits of the Compliance Parties in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget Circular A-133, "Audits of State and Local Governments," or as otherwise requested by the TIFIA Lender. Upon reasonable notice, each Compliance Party shall cooperate fully in conducting audits and shall, in accordance with applicable law, provide full access to any books, documents, papers or other records, which are pertinent the U.S. 36 Phase 2 Project or the TIFIA Phase 2 Loan.

(c) Each Compliance Party agrees to furnish the information required pursuant to the Concession Agreement or the Project Oversight Agreement relating to the Phase 2 Work to enable the Concessionaire to fully comply with the Financial Plan requirements set forth in the TIFIA Phase 2 Loan Agreement.

(d) Each Compliance Party shall maintain and retain all files relating to the Phase 2 Work until five years after the later of the date on which (i) all rights and duties hereunder have been fulfilled and necessary audits have been performed and (ii) any litigation relating to the U.S. 36 Phase 2 Project, the TIFIA Phase 2 Loan or this Compliance Agreement is finally resolved. Each Compliance Party shall provide the TIFIA Lender in a timely manner all records and documentation relating to the U.S. 36 Phase 2 Project that the TIFIA Lender may reasonably request from time to time.

Section 9. No Personal Recourse. No official, employee or agent of the TIFIA Lender, HPTE or CDOT or any person executing this Compliance Agreement shall be personally liable on this Compliance Agreement by reason of the issuance, delivery or execution hereof.

Section 10. No Third Party Rights. The Parties hereby agree that this Compliance Agreement creates no third party rights against the United States Government, the TIFIA Lender, USDOT, CDOT or HPTE solely by virtue of this Compliance Agreement.

Section 11. Compliance Party's Authorized Representative. Each Compliance Party shall at all times have appointed a Compliance Party Authorized Representative by designating such person or persons from time to time to act on such Compliance Party's behalf pursuant to a written certificate furnished to the TIFIA Lender, containing the specimen signature or signatures of such person or persons and signed by such Compliance Party.

Section 12. TIFIA Lender's Authorized Representative. The TIFIA Lender shall at all times have appointed a TIFIA Lender's Authorized Representative by designating such person or persons from time to time to act on FHWA's behalf pursuant to a written certificate furnished to the Compliance Parties, containing the specimen signature or signatures of such person or persons and signed by the TIFIA Lender.

Pursuant to a Delegation of Authority dated July 24, 2003, the Administrator delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Act (as defined in the TIFIA Phase 2 Loan Agreement), including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. This authority was delegated to the Associate Administrator for Administration who in turn delegated such authority to the Director of the Office of Innovative Program Delivery on June 15, 2009. Pursuant to these delegations the above named officers, any of whom alone may act, serve as the TIFIA Lender's Authorized Representative under this Compliance Agreement, in addition to the Administrator for the purposes set forth herein.

Section 13. Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Compliance Agreement shall in any event be effective without the written consent of the Parties hereto.

Section 14. Governing Law. This Compliance Agreement shall be governed by the federal laws of the United States if and to the extent such federal laws are applicable and the internal laws of the State of Colorado if and to the extent such federal laws are not applicable.

Section 15. Severability. In case any provision in or obligation under this Compliance Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 16. Successors and Assigns. This Compliance Agreement shall be binding upon the Parties hereto and their respective successors and assigns and shall inure, to the benefit of the Parties hereto and the successors and assigns of the TIFIA Lender.

Section 17. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender, CDOT or HPTE is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 18. Delay or Omission Not Waiver. No waiver by the TIFIA Lender of any breach by any Compliance Party of any of its obligations, agreements or covenants hereunder shall be deemed a waiver of any subsequent breach, or a waiver of any other obligation, agreement or covenant, and no delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of a Compliance Party (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Compliance Agreement or by law to the TIFIA Lender or a Compliance Party may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender or such Compliance Party.

Section 19. No Liability for TIFIA Phase 2 Loan. Nothing in this Compliance Agreement creates or shall be construed to create any liability, direct or indirect, of HPTE or CDOT under the TIFIA Phase 2 Loan Agreement or for the debt or other obligations of the Concessionaire under the TIFIA Phase 2 Loan Agreement.

Section 20. Notices. All notices and other communications hereunder shall be in writing (including by facsimile), shall be deemed to have been duly given when delivered by hand, or in the case of notice given by mail or facsimile, when received, and shall be addressed:

If to HPTE:

Colorado Department of Transportation
High Performance Transportation Enterprise
4201 East Arkansas Avenue
Denver, Colorado 80222
Attention: US 36 Coordinator
Facsimile: 303-757-9656

If to CDOT:

Colorado Department of Transportation
4201 East Arkansas Avenue
Denver, Colorado 80222
Attention: Donald E. Hunt, Executive Director
Telephone: 303-757-9201
Facsimile: 303-757-9656

If to TIFIA Lender:

TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-302
1200 New Jersey Avenue, SE
Washington, DC 20590
Attention: Director
Telephone: 202-366-9644
Facsimile: 202-366-2908
Email: TIFIAcredit@dot.gov

With copies to:

Federal Highway Administration, Colorado Division
Office
12300 W. Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Attention: Division Administrator
Telephone: 720-963-3000
Facsimile: 720-963-3001
Email: Colorado.fhwa@dot.gov

Section 21. Miscellaneous.

(a) Neither this Compliance Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by each of HPTE, CDOT and the TIFIA Lender.

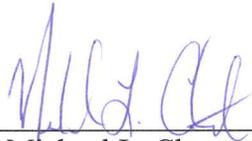
(b) Each Compliance Party shall fully cooperate with the TIFIA Lender and perform all additional acts reasonably requested by the TIFIA Lender to effect the purposes of this Compliance Agreement. The Compliance Parties agree that each of them shall take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the TIFIA Lender may reasonably request to effectuate the terms of this Compliance Agreement.

Section 22. Counterparts. This Compliance Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different Parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

Section 23. Effectiveness. This Compliance Agreement shall be effective as of the date hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Compliance Agreement as of the date first above written.

**COLORADO HIGH PERFORMANCE
TRANSPORTATION ENTERPRISE**

By: 
Name: Michael L. Cheroutes
Title: Director

[Signature Page to Compliance Agreement]

**COLORADO DEPARTMENT OF
TRANSPORTATION**

By: _____
Name: Donald E. Hunt
Title: Executive Director

[Signature Page to Compliance Agreement]

**UNITED STATES DEPARTMENT
OF TRANSPORTATION**, acting by and through
the Federal Highway Administrator

By: _____
Name: Gregory G Nadeau
Title: Deputy Administrator

[Signature Page to Compliance Agreement]