

Resolution #BE-17-11-1

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

Approved by the Transportation Commission on November 16, 2017.

WHEREAS, the General Assembly created the Colorado Bridge Enterprise (“BE”) 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, on February 19, 2016 the Transportation Commission approved a governance structure between the Colorado Department of Transportation (“CDOT”), BE and the Colorado High Performance Transportation Enterprise (“HPTE”) in which BE is the managing partner of the Central 70 Project (“Project”) and BE and HPTE will enter into an anticipated agreement (“Project Agreement”) with a private partner (“Developer”); and

WHEREAS, in June 2017, the BE Board of Directors, in Resolution #BE-17-6-2, approved the *Central 70 Project Intra-Agency Agreement* (the “Central 70 IAA”) between CDOT, BE, and HPTE to further define their 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, specifically with regard to BE, the Central 70 IAA outlined that BE will contribute, not to exceed, \$142,309,333 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, in July 2017, the BE Board of Directors, in Resolution #BE-17-7-3, approved an initial contingency amount of \$40,300,000 for BE’s share of supervening events on the Project; and

WHEREAS, in recognition of anticipated cost savings to BE over the term of the Project Agreement with the Developer, and the need for additional moneys to fund pre-development costs for the Project, including for right-of-way acquisition and railroad work, staff requests additional BE funding be made available, above the maximum amount payable for pre-development costs under the Central 70 IAA; and

WHEREAS, the attached First Amendment to the Central 70 Intra-Agency Agreement (the “Amendment”) between CDOT, HPTE and BE outlines and memorializes that BE’s maximum contribution to the Project’s pre-development costs shall be increased by \$30 million to \$172,309,333; and

WHEREAS, BE’s contribution of an additional \$30 million to pre-development costs will still bring BE’s contribution to the Project at or under the \$850 million commitment the BE Board of Directors made in BE Resolution #BE-15-2-3; and

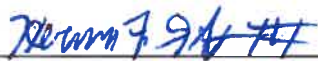
WHEREAS, staff further requests that the related initial contingency amount of \$40,300,000 for BE's share of supervening events on the Project be reduced by \$10,000,000; and

WHEREAS, the Amendment does not change the requirement that CDOT, and not HPTE or BE, shall be solely responsible for identifying and obtaining additional funding sources to cover any shortfalls after BE contributes the amended amount to the Project's pre-development costs; and

WHEREAS, the Amendment also makes certain other modifications regarding CDOT's ongoing responsibilities to the Project, the makeup of the Project's Executive Oversight Committee, and the consent rights of the Developer regarding modifications to agreements for backup loans made by CDOT pursuant to the Central 70 IAA.

NOW THEREFORE BE IT RESOLVED, the Colorado Bridge Enterprise Board of Directors hereby approves the First Amendment to the Central 70 Project Intra-Agency Agreement between CDOT, HPTE and BE and authorizes the BE Director or his designee to execute the Amendment on behalf of BE, with such revisions or modifications, not inconsistent with this Resolution, and at such time, as the BE Director may determine to be necessary or appropriate.

BE IT FURTHER RESOLVED, the Colorado Bridge Enterprise Board of Directors hereby approves a reduction of the initial contingency amount of \$40,300,000 for Bridge Enterprise's share of Supervening Events on the Central 70 Project to \$30,300,000. As set out in Resolution #BE-17-7-3, the contingency is to be adjusted as construction progresses and risk milestones pass and the Bridge Enterprise is directed to utilize debt instruments, primarily the Transportation Commission Backup Loan provision, in the event Bridge Enterprise's share of the Supervening Events exceeds the current contingency in order to maintain the funding of the non-Central 70 Bridge Enterprise eligible projects.



Herman Stockinger, Secretary
Colorado Bridge Enterprise



Date