

DIRECT AGREEMENT

This **DIRECT AGREEMENT** (this “**Direct Agreement**”) dated as of [____], 2017 (the “**Effective Date**”), is made by and among the (i) COLORADO DEPARTMENT OF TRANSPORTATION, an agency of the State of Colorado (“**CDOT**”), (ii) COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE, a government-owned business and a division of CDOT (the “**HPTE**” or “**Borrower**”) and (iii) UNITED STATES DEPARTMENT OF TRANSPORTATION, an agency of the United States, acting by and through the Executive Director of the Build America Bureau (“**USDOT**” or the “**TIFIA Lender**”).

PRELIMINARY STATEMENTS

(1) On [____], 2017, CDOT and the HPTE entered into that certain Amended and Restated C-470 Express Lanes Project Intra-Agency Agreement, as it may be modified or amended from time to time in accordance with its terms (the “**CDOT - HPTE IAA**”), relating to the Project (as defined in the TIFIA Loan Agreement (as defined below));

(2) CDOT has also entered into that certain Design-Build Contract, dated as of June 16, 2016, between CDOT and Flatiron | AECOM LLC, as it may be amended from time to time in accordance with its terms (the “**Design-Build Contract**”); and

The foregoing agreements in paragraphs (1) and (2) above, together with any CDOT O&M Loan Agreement entered into from time to time pursuant to the CDOT - HPTE IAA, are herein collectively referred to as the “**CDOT Agreements**”.

(3) The HPTE has entered into a Master Trust Indenture, dated as of [____], 2017 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Master Trust Indenture**”) with Zions Bank, a division of ZB, National Association, as trustee (together with its successors, designees and assigns in such capacity, the “**Trustee**”), pursuant to which the HPTE intends to issue or incur debt obligations in order to raise financing for a portion of the development and construction of the Project.

(4) In reliance on the support for the Project provided by CDOT pursuant to the CDOT Agreements and upon the assignment by the HPTE of the Trust Estate to the Trustee pursuant to (and as defined in) the Master Trust Indenture, USDOT desires to make available to the HPTE a loan pursuant to that certain TIFIA Loan Agreement, dated as of the date hereof, by and between USDOT and the HPTE (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**TIFIA Loan Agreement**”) for the purpose of financing certain costs in connection with the construction and development of the Project.

(5) It is a condition to the consummation of the transactions contemplated by the TIFIA Loan Agreement that CDOT and the HPTE enter into this Direct Agreement to provide certain assurances and agreements, as further described below, in connection with the CDOT Agreements and the transactions contemplated thereby.

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

Section 1. Defined Terms. All capitalized terms not defined herein shall have the meanings ascribed to them in the TIFIA Loan Agreement.

Section 2. Compliance with Laws, etc. CDOT agrees to comply in all material respects with all applicable material federal and State laws, including all items set forth in Exhibit E to the TIFIA Loan Agreement.

Section 3. Compliance with CDOT Agreements. CDOT agrees to take all action necessary to comply with its obligations, covenants and responsibilities set forth in the CDOT Agreements.

Section 4. Conditions Precedent. Notwithstanding anything in this Direct Agreement to the contrary, this Direct Agreement shall not become effective until the following conditions precedent shall have been satisfied:

(a) CDOT shall have delivered to the TIFIA Lender a certificate in the form attached hereto as **Exhibit A** (i) designating CDOT’s Authorized Representative, and (ii) confirming such person’s position and incumbency.

(b) CDOT shall have delivered to the TIFIA Lender a legal opinion, in form and substance satisfactory to the TIFIA Lender (including those opinions set forth on **Exhibit B**), from the Office of the Attorney General of the State.

Section 5. Representations and Warranties of CDOT. CDOT hereby represents and warrants as of the date of execution of this Direct Agreement and as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) CDOT is an agency of the State of Colorado and, as authorized by the Transportation Commission, has taken all necessary action authorizing it to execute, deliver and perform its obligations under the CDOT Agreements, including this Direct Agreement.

(b) Upon execution and delivery of this Direct Agreement, CDOT is not in default of any of the terms of or its obligations under the CDOT Agreements or this Direct Agreement.

(c) Except for the USACE Permit, CDOT 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 necessary as of the time this representation and warranty is made for the development, construction, operation and maintenance of the Project and that are required for CDOT to execute, deliver and perform its obligations under the CDOT Agreements.

(d) As of the Effective Date, the officers of CDOT executing this Direct Agreement (or that previously executed) and any of the other CDOT Agreements, and any

certificates or instruments related thereto, are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same on behalf of CDOT.

(e) The execution and delivery of this Direct Agreement and any of the CDOT Agreements, the consummation of the transactions contemplated herein or therein and the fulfillment of or compliance with the terms and conditions of this Direct Agreement or any CDOT Agreement will not (i) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by CDOT of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which CDOT is a party or by which it or its properties or assets are otherwise subject or bound, or (ii) result in the creation or imposition of any Lien upon the Project other than Permitted Liens.

(f) CDOT is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions related to the Project and the business and operations of the Project in compliance in all material respects with, all applicable laws, to the extent applicable. To CDOT's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on Exhibit E to the TIFIA Loan Agreement, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by CDOT or, to CDOT's knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(g) As of the Effective Date, except as set forth in Schedule 14(f) of the TIFIA Loan Agreement, there is no action suit, proceeding or, to the knowledge of CDOT, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of CDOT, threatened against or affecting the Project or the ability of CDOT to execute, deliver and perform its respective obligations under any of the CDOT Agreements or this Direct Agreement. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of CDOT, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of CDOT, threatened against or affecting the Project, CDOT or the assets, properties or operations of CDOT that in any case could reasonably be expected to result in a Material Adverse Effect. To CDOT's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to result in a Material Adverse Effect. CDOT is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(h) Each Principal Project Contract to which CDOT is a party and in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each such Principal Project Contract have been satisfied. No event has occurred that gives CDOT or, to CDOT's knowledge,

any Principal Project Party, the right to terminate any such Principal Project Contract. CDOT is not in breach of any material term in or in default under any of such Principal Project Contracts, and to the knowledge of CDOT, no other party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(i) The information furnished by CDOT to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements.

(j) Neither CDOT nor, to the knowledge of CDOT, any Principal Project Party:

(i) is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or

(ii) is a Person (A) that is charged with, or has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws; (B) that has been, since the date that is five (5) years prior to the Effective Date, convicted of any violation of, has been subject to criminal or civil penalties pursuant to, had any of its property seized or forfeited under, or has entered into any agreement with the Government or a state or local government related to violations of any such laws; (C) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list); (D) with whom any U.S. Person (as defined by the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law; or (E) with respect to a Principal Project Party, that is owned (other than any Person beneficially owning or holding five percent (5%) or less of the equity interests of such Principal Project Party), Controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii).

Section 6. 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 perform all transactions contemplated by this Direct Agreement.

(b) This Direct Agreement has been duly authorized, executed and delivered by the TIFIA Lender, and is a legally valid and binding agreement of the TIFIA Lender, enforceable in accordance with its terms.

(c) The officer of the TIFIA Lender executing this Direct Agreement is duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

Section 7. Additional CDOT Covenants and Acknowledgments. CDOT hereby covenants and agrees to the covenants contained in Section 16(b), 16(d)(i), 16(d)(ii), 16(e), 16(f)(i), 16(f)(ii), 16(f)(v), 16(f)(vi), 16(q)(i) and Section 17(b), 17(c), 17(d)(ii), 17(h), and 17(l) of the TIFIA Loan Agreement as though each such covenant was set forth herein, in each case to the extent applicable to CDOT. CDOT further hereby covenants and agrees to the following covenants and acknowledgements:

(a) CDOT agrees to maintain insurance in regard to the Project as required to comply with Section 16(f) of the TIFIA Loan Agreement, and to deliver to the HPTE all insurance brokers' letters, certificates of insurance, and other documents required to comply with such Section 16(f). Promptly upon request by the TIFIA Lender, CDOT shall deliver to the TIFIA Lender copies of any underlying insurance policies obtained by or on behalf of CDOT in respect of the Project. All such policies shall be available at all reasonable times for inspection by the TIFIA Lender, its agents and representatives.

(b) CDOT's failure to substantially complete the Project, as generally described in the Application and NEPA Determination by the Projected Substantial Completion Date will constitute a Development Default pursuant to Section 20(a)(iii) of the TIFIA Loan Agreement, subject to CDOT's opportunity to cure such Development Default as described in Section 20(a)(iii) of the TIFIA Loan Agreement.

(c) CDOT's failure to cause its contractors to, at all times, maintain with responsible insurers, to the extent available from responsible insurers at reasonable rates, or through a program of self-insurance (or a combination thereof), all such insurance on the Project as is customarily maintained by CDOT with respect to works and properties of like character against accident to, loss of or damage to such works or properties shall, subject to the cure provisions of the TIFIA Loan Agreement, constitute an Event of Default under the TIFIA Loan Agreement.

(d) CDOT shall not change the fundamental nature of the Project, including any change to the C-470 Express Lanes' use as tolled lanes.

(e) CDOT shall or shall cause HPTE to, within five (5) Business Days after CDOT learns of the occurrence, give the TIFIA Lender notice of any of the following events, setting forth details of such event:

- (i) Events of Defaults - any event of default under any CDOT Agreement or any event which, given notice or the passage of time or both, would constitute an event of default under any CDOT Agreement;

- (ii) Litigation - the filing of any actual litigation, suit or action, or the delivery to CDOT of any written claim, which could reasonably be expected to have a material adverse effect upon the Project or its revenues and expenses, the Pledged Revenues, or upon CDOT and its performance under any CDOT Agreement;
- (iii) Other Adverse Events - the occurrence of any other event or condition, which could reasonably be expected to have a material adverse effect upon the Project or its revenues and expenses, the Pledged Revenues, or upon CDOT and its performance under any CDOT Agreement;
- (iv) Delayed Governmental Approvals - any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the CDOT's plans to remedy or mitigate the effects of such failure or delay;
- (v) Environmental Notices - any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;
- (vi) Insurance Claim - any insurance claims made by CDOT or a Construction Contractor in respect of the Project in excess of \$[1,000,000] either individually or in the aggregate, to the extent related to the Project or to the extent the proceeds from such insurance claim would be deposited into a Project Account;
- (vii) Uncontrollable Force - the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect; and
- (viii) Events of Nonallocation - any decision by CDOT or the Transportation Commission not to allocate funds for, or lend all or any portion of, the amount requested by the Borrower as a CDOT O&M Loan pursuant to the CDOT – HPTE IAA.

(f) CDOT acknowledges and agrees that HPTE shall not make any payments to CDOT pursuant to any CDOT O&M Loan Agreement unless, as of any proposed date for such payment, HPTE shall have paid to the TIFIA Lender all TIFIA Debt Service (including all TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service) that has become due and payable on such date or on any date prior to such proposed payment, including any TIFIA Scheduled Debt Service not paid as of the scheduled date for payment of such TIFIA Scheduled Debt Service.

(g) Notwithstanding anything to the contrary in the CDOT – HPTE IAA (including Paragraph 5 of Section V thereof), CDOT shall maintain all records and files relating

to the Project, the Pledged Revenues or the TIFIA Loan until three (3) years after the later of the date on which (i) all rights and duties under the TIFIA Loan Agreement and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Pledged Revenues, the TIFIA Loan or the TIFIA Loan Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and CDOT.

(h) CDOT shall not take any action to reorganize, consolidate with, or merge HPTE into another Person unless such merger or consolidation is with or into another entity established and Controlled by CDOT, and in each case, including reorganization, does not adversely affect or impair to any extent or in any manner (i) the Pledged Revenues or other elements of the Trust Estate, or (ii) the availability of the Pledged Revenues for the payment and security of the obligations of HPTE under this Direct Agreement. CDOT acknowledges that a reorganization of HPTE that does not satisfy the requirements of the preceding sentence shall be an event of default under the TIFIA Loan Agreement.

Section 8. Accounting and Audit Procedures; Reports and Records. For the period through Substantial Completion (as defined in the TIFIA Loan Agreement), CDOT shall or shall cause HPTE to provide the TIFIA Lender with written notification, at least thirty (30) days prior to instituting any increase or decrease to the Project Budget in an amount equal to or greater than \$2,500,000, setting forth the nature of the proposed increase or decrease and estimating the impact of such increase or decrease on the capital costs, operating costs, and the Financial Plan. CDOT's notice shall demonstrate that the proposed increase or decrease is necessary or beneficial to the Project and does not materially impair CDOT's ability to comply with its respective obligations under the Related Documents.

Section 9. Subject to Annual Allocation. The covenants, acknowledgements, and obligations of CDOT under this Direct Agreement and the CDOT Agreements relating to the provision of any CDOT O&M Loan are subject to allocation of moneys therefor by the Transportation Commission in its sole discretion, and shall not be deemed or construed as creating an indebtedness of CDOT within the meaning of any provision of the Colorado Constitution or the laws of the State concerning or limiting the creation of indebtedness of CDOT, and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of CDOT within the meaning Section 20(4) of Article X of the Colorado Constitution.

Section 10. No Liability for TIFIA Loan. Nothing in this Direct Agreement shall be construed to mean that the CDOT is liable under the TIFIA Loan Agreement for the debt of the HPTE, as Borrower under the TIFIA Loan Agreement.

Section 11. Project Monitoring. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) development, including but not limited to environmental compliance, design, right-of-way acquisition, and construction of the Project pursuant to the TIFIA Loan Agreement. CDOT shall be responsible for administering construction oversight of the Project in accordance with the Design-Build Contract. CDOT agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation or other information as shall be requested by the USDOT, or its agents, including any independent engineer reports, documentation or information,

should an independent engineer be retained by or at the request of CDOT or the HPTE. Further, CDOT agrees to furnish to HPTE and reports and documents required to comply with Sections 21 and 22 of the TIFIA Loan Agreement.

Section 12. Sovereign Immunity. CDOT has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of CDOT under this Direct Agreement or under any of the CDOT Agreements. To the fullest extent permitted by applicable law, CDOT agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of CDOT under this Direct Agreement or under any of the CDOT Agreements.

Section 13. No Personal Recourse. No official, employee or agent of the TIFIA Lender or CDOT or any person executing this Direct Agreement shall be personally liable on this Direct Agreement by reason of the issuance, delivery or execution hereof.

Section 14. CDOT's Authorized Representative. CDOT shall at all times have appointed an authorized representative by designating such person or persons from time to time to act on CDOT's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer (as defined in the TIFIA Loan Agreement), if any, containing the specimen signature or signatures of such person or persons and signed by CDOT (each such person, "**CDOT's Authorized Representative**").

Section 15. TIFIA Lender's Authorized Representative. Pursuant to Section 27 of the TIFIA Loan Agreement, 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 the TIFIA Lender's behalf pursuant to a written certificate furnished to HPTE, CDOT and the Servicer, if any, containing the specimen signature or signatures of such person or persons and signed by the TIFIA Lender. Pursuant to the Delegation, the Director of the Credit Office of the Build America Bureau may act and serve as the TIFIA Lender's Authorized Representative under this Direct Agreement, in addition to the Executive Director of the Build America Bureau for the purposes set forth herein.

Section 16. Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Direct Agreement shall in any event be effective without the written consent of the Parties hereto.

Section 17. Governing Law. This Direct 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 18. Severability. In case any provision in or obligation under this Direct 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 19. Successors and Assigns. This Direct 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. None of CDOT or the HPTE may sell, assign, transfer or delegate any of its rights or obligations under this Direct Agreement without the prior written consent of the TIFIA Lender.

Section 20. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender 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 21. Delay or Omission Not Waiver. No waiver by the TIFIA Lender of any breach by CDOT 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 CDOT (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 Direct Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 22. 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 email, when received, and shall be addressed: (a) if to CDOT, at 4201 E. Arkansas Avenue, Denver, Colorado 80222, Attention: [Executive Director], telephone: [●], email: []; (b) if to the HPTE, at Colorado High Performance Transportation Enterprise, 4201 E. Arkansas Avenue, #230, Denver, Colorado 80222, Attention: [David Spector], HPTE Director, telephone: [303-757-9607], email: [●]; (c) if to USDOT, at Build America Better Bureau, Room W12-464, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, Attention: Director, Office of Credit Programs telephone: [●], email: BureauOversight@dot.gov; with copies to: Federal Highway Administration, Colorado Division Office, 12300 W. Dakota Avenue, Suite 180, Lakewood, CO 80229, Attention: Division Administrator, telephone: 720-963-3000, email: Colorado.fhwa@dot.gov or (d) to such other address or addresses as any Party may designate by notice given pursuant to the Parties hereto.

Section 23. Miscellaneous.

(a) USDOT is hereby authorized to demand specific performance of this Direct Agreement, whether or not the HPTE shall have complied with any of the provisions hereof or of the CDOT - HPTE IAA applicable to it, at any time when CDOT shall have failed to comply with any of the provisions of this Direct Agreement applicable to it. CDOT irrevocably waives any defense based on the adequacy of a remedy at law, which might be asserted as a bar to such remedy of specific performance.

(b) Neither this Direct Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by each Party.

(c) CDOT shall fully cooperate with USDOT and perform all additional acts reasonably requested by USDOT to effect the purposes of this Direct Agreement. The Parties hereto 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 USDOT may reasonably request to effectuate the terms of this Direct Agreement.

Section 24. Counterparts. This Direct 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 25. Effectiveness. This Direct Agreement shall be effective on the Effective Date.

[Signature Pages Follow]

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

**COLORADO DEPARTMENT OF
TRANSPORTATION**

By: _____
Name: Shailen P. Bhatt
Title: Executive Director

LEGAL REVIEW:

Cynthia H. Coffman,
Attorney General

By: _____
Assistant Attorney General

[Signature Page to Direct Agreement]

**COLORADO HIGH PERFORMANCE
TRANSPORTATION ENTERPRISE**

By: _____

Name: David I Spector
Title: HPTE Director

LEGAL REVIEW:

Cynthia H. Coffman,
Attorney General

By: _____
Assistant Attorney General

[Signature Page to Direct Agreement]

**UNITED STATES DEPARTMENT OF
TRANSPORTATION, acting by and
through the Executive Director of the
Build America Bureau**

By: _____

Name: Martin Klepper

Title: Executive Director

**EXHIBIT A
INCUMBENCY CERTIFICATE**

The undersigned certifies that he/she is the Executive Director of the COLORADO DEPARTMENT OF TRANSPORTATION, an agency of the State of Colorado (the “CDOT”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of CDOT in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the Direct Agreement and/or the other CDOT Agreements as the CDOT’s Authorized Representative (each as defined in that certain Direct Agreement, dated as of the date hereof, between CDOT, Colorado High Performance Transportation Enterprise, and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of [____], 2017.

[_____]

By: _____
Name:
Title:

EXHIBIT B
OPINIONS REQUIRED OF COUNSEL TO CDOT

An opinion of the counsel of CDOT, dated as of the Effective Date, to the effect that: (a) CDOT is duly formed, validly existing, and in good standing under the laws of the State of Colorado; (b) CDOT has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Direct Agreement and each of the CDOT Agreements; (c) the execution and delivery by CDOT of, and the performance of its respective obligations under, the Direct Agreement and each of the CDOT Agreements, have been duly authorized by all necessary organizational or regulatory action; (d) CDOT has duly executed and delivered Direct Agreement and each of the CDOT Agreements and each such document constitutes the legal, valid and binding obligation of CDOT; enforceable against CDOT in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of CDOT for the execution and delivery by CDOT of, and the performance of CDOT under, the Direct Agreement and each of the CDOT Agreements other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by CDOT; (f) the execution and delivery by CDOT of, and compliance with the provisions of, the Direct Agreement and each of the CDOT Agreements in each case do not (i) violate the Organizational Documents of CDOT, (ii) violate the law of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which CDOT is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which CDOT is subject; and (g) to counsel's knowledge after due inquiry, there are no pending actions, suits, proceedings or investigations against CDOT or any other party by or before any court, arbitrator or any other governmental authority in connection with the Direct Agreement, the CDOT Agreements, or the Project other than the case Highlands Ranch Neighborhood Coalition v. Colorado Department of Transportation (Civil Action No. 16-cv-01089) before the U.S. District Court for Colorado.