



MEMORANDUM

TO: HPTE BOARD OF DIRECTORS
FROM: DAVID SPECTOR, HPTE DIRECTOR
DATE: JANUARY 18, 2017
SUBJECT: BUDGET SUPPLEMENT FOR US 36 EXPRESS LANES PROJECT COMPLETION

Purpose and Action

To present the Board with a budget supplement for the US 36 Express Lanes Project. Staff is requesting HPTE Board review and approval of Resolution #220.

Background

The US 36 Express Lanes Project is substantially complete and toll commencement began in spring 2016. In order to reach full project completion, HPTE and CDOT staff have been working with Plenary Roads Denver (PRD) to document final roles and responsibilities. Specific details and terms regarding those duties are outlined in the US 36 Concession Project Completion and Settlement Agreement (the "Agreement").

Current Details

In order to comply with the Agreement, staff will need to process a transfer of exiting project funds from the Phase 1 project to the Phase 2 project. No additional funds are being requested and the funds to be transferred have already been approved and allocated to the US 36 Express Lanes Project. This transfer will allow staff to use existing project savings to complete a payment of \$4.0 million in order to comply with all terms as outlined in the executed Agreement.

Options and Recommendations

1. Approve the attached resolution authorizing the transfer of project funds. **STAFF RECOMMENDATION**
2. Request additional information regarding the proposed transfer and defer action.
3. Deny the requested action.

Next Steps

1. If approved, staff will work to complete all necessary transfers.
2. Once the transfers are completed, staff will complete the process to issue a final \$4.0 million payment to comply with the executed Agreement and achieve project completion.

Attachments

Attachment A: Resolution-HPTE #220: Approving a Budget Supplement for US36 Express Lanes Project Completion

Resolution – HPTE #220

Approving a Budget Supplement for US36 Express Lanes Project Completion

WHEREAS, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”) as a government-owned business within the Colorado Department of Transportation (“CDOT”) to pursue public private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects; and

WHEREAS, such innovative means of financing projects include, but are not limited to, public-private partnerships, operating concession agreements, user fee-based project financing, and availability payment and design-build contracting; and

WHEREAS, HPTE has entered into an Amended and Restated Concession Agreement (the “Concession Agreement”) dated February 25, 2014, with Plenary Roads Denver LLC (the “Concessionaire”), which sets forth the terms and conditions for the implementation of the US 36 Phase 2 Project, and the operation and maintenance of the US 36 Phase 1 Project and the I-25 Managed Lanes; and

WHEREAS, the US 36 Express Lanes Project is substantially complete, and has remaining funds in the Phase 1 and Phase 2 budgets that have been previously approved to be used on eligible project expenses; and

WHEREAS, there are sufficient previously budgeted funds to make the final project completion payment, and no additional funds are being requested, and it is necessary to transfer certain funds from the Phase 1 budget to the Phase 2 budget for such purpose; and

WHEREAS, such transfer may include the transfer of funds previously allocated to the Phase 1 project setup in CDOT’s Fund 400 to the Phase 2 project setup in HPTE’s Fund 536, and such transfer shall be deemed a portion of CDOT’s overall contribution to the US 36 Managed Lanes Concession Project and, consistent with Section 43-4-803(13)(b)(II) and (IV), C.R.S., shall not be considered a grant to HPTE for purposes of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, such fund transfers are necessary to enable a single \$4 million dollar payment for completion of the US 36 Phase 2 Project as required by the Concession Agreement; and

WHEREAS, the terms and details surrounding project completion are contained in that certain US 36 Concession Project Completion and Settlement Agreement (the “Agreement”), to be executed by the HPTE Director, Plenary Roads Denver and the State Controller;

NOW THEREFORE BE IT RESOLVED, the Board hereby authorizes the transfer of \$4 million in order to achieve project completion, in accordance with the terms of the Agreement.

Signed as of January 18, 2017

Kari V. Grant
Secretary, HPTE Board