

Resolution – HPTE #282

Approving the Second 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

WHEREAS, the General Assembly created the Colorado High Performance Enterprise (“HPTE”), pursuant to Section 43-4-806, C.R.S., as a government-owned business within CDOT to pursue innovative means of more efficiently financing important surface transportation projects that will improve the safety, capacity, and accessibility of the surface transportation system; and

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

WHEREAS, on June 21, 2017, the HPTE Board of Directors (the “Board”), by Resolution #234, 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 HPTE, the Central 70 IAA outlines that HPTE will be responsible for contracting tolling equipment for the Project during the construction period of the Project and outlines the methodology under which HPTE, with contributions from CDOT and the City and County of Denver as describes in the Central 70 IAA, will make a monthly Operations, Maintenance, and Renewal Payment (“OMRP”) to the Developer as provided for in the Project Agreement; and

WHEREAS, on November 15, 2017, the Board, by Resolution #252, approved the *First Amendment to the Intra-Agency Agreement for the Central 70 Project* (the “First Amendment”) to memorialize BE’s maximum contribution to the Project’s pre-development costs and made certain other modifications regarding CDOT’s ongoing responsibilities to the Project; and

WHEREAS, in order to reflect changes being made in the second amendment to the Project Agreement, CDOT, BE, and HPTE desire to enter into a second amendment the Central 70 IAA in substantially the form attached hereto (the “Second Amendment”); and

WHEREAS, the attached Second Amendment memorializes an amended Project timeline and incorporates new and re-structured milestones during the construction period; and

WHEREAS, the Second Amendment also makes explicit the Pro-Rata Construction Cost allocation between CDOT and BE for ease of reference and removes reference to the first Performance Payment being made following Substantial Completion Date due to the amended Project timeline.

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

Signed as of November 14, 2018

Simon Logan
Secretary, HPTE Board



Central 70

DATE: November 14, 2018
TO: Board of Directors of the Colorado Bridge Enterprise (“BE”)
Colorado Transportation Commission (“TC”)
High Performance Transportation Enterprise (“HPTE”)
FROM: Keith Stefanik, Central 70 Project Director
David Spector, HPTE Director
SUBJECT: Request for Approval of Second Amendment to Central 70 Intra-agency Agreement

Purpose

The purpose of this memorandum is to summarize recent revisions to the Intra-Agency Agreement (“IAA”) among CDOT, HPTE, and BE for the Central 70 Project, and to request the Boards’ approval.

Action

The Central 70 Project team requests that the HPTE, BE and TC approve the Central 70 IAA.

Background

The Boards approved the first IAA on August 22, 2017, and an amended IAA on November 17, 2017. Since that time, changes to the larger Project Agreement have been made, which requires changes to the IAA. Changes are summarized below.

Revisions to IAA

The following revisions have been made to the IAA:

- Added Milestones 5 and 6 to capture amended Project timeline. (Table III-1 of Section III.4)
- Intention to use DRCOG CMAQ funds for CDOT MP Obligations. (Section III.5)
- Specific percentage split for Pro-Rata Construction Cost allocation between CDOT and BE for ease of reference (66%/34% split). (Section III.7)
- Remove reference to first Performance Payment being made following Substantial Completion Date due to amended Project timeline. Performance Payments now begin at Milestone 5. (Section IV.1)

Commission Options / Decision Matrix

- 1) **Staff Recommendation: Approve the Second Amendment to the Central 70 IAA.**
- 2) Review, but do not approve the Second Amendment to the Central 70 IAA. Provide feedback on desired changes.

Recommendation

The Central 70 Project team requests that the BE Board and TC approve the Second Amendment to the Central 70 IAA.

