

Resolution – HPTE #306

Approving an Intra-Agency Agreement with the Colorado Department of Transportation for the I-25 South Gap: Monument to Castle Rock Project

WHEREAS, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”), pursuant to § 43-4-806, C.R.S., as a government-owned business within the Colorado Department of Transportation (“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, HPTE is authorized, pursuant to § 43-4-806(2)(c)(I), C.R.S., to impose user fees on the traveling public for the privilege of using surface transportation infrastructure; and

WHEREAS, pursuant to § 43-4-806(6)(g), C.R.S., HPTE is empowered to enter into contracts or agreements with any public entity to facilitate a public-private partnership, including, but not limited to, an agreement in which the enterprise, on behalf of CDOT, provides services in connection with a surface transportation infrastructure project; and

WHEREAS, CDOT, in partnership with HPTE, is completing construction and will commence toll operations on the I-25 South Gap: Monument to Castle Rock Project (the “Gap Project”) consisting of an 18-mile tolled express lane in each direction on I-25 between Castle Rock and Monument; and

WHEREAS, the HPTE Board of Directors (the “Board”) supports the Gap Project and recognizes the benefits it provides to the State, which include, but are not limited to, improving travel times, managing congestion in the I-25 South Gap corridor, and providing travelers with a choice of a new travel lane; and

WHEREAS, CDOT and HPTE desire to define the allocation of costs and responsibilities for the implementation, operation and maintenance of the Gap Project, as well as set forth invoicing and payment procedures with respect to the same; and

WHEREAS, pursuant to § 43-4-806(4), C.R.S., the Transportation Commission may authorize the transfer of money from the state highway fund to HPTE to defray expenses of HPTE; and

WHEREAS, the proposed I-25 South Gap: Monument to Castle Rock Intra-Agency Agreement with HPTE (the “South Gap Intra-Agency Agreement”) provides that in the event user fee revenues are insufficient, or projected to be insufficient, to satisfy HPTE’s operations and maintenance obligations under the South Gap Intra-agency Agreement, HPTE can request, and the Transportation Commission will consider making, but is not obligated to make, one or more loans from the state highway fund to HPTE to satisfy its obligations; and

WHEREAS, any loan that CDOT provides HPTE under the South Gap Intra-Agency Agreement shall, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, constitutes a loan from the Transportation Commission to HPTE and shall not be considered a grant for purposes of Section 20(2)(d) of Article X of the state Constitution; and

WHEREAS, HPTE acknowledges that the Transportation Commission is not required by the South Gap Intra-Agency Agreement to make any such loan, and that any determination by the Transportation Commission to make, and allocate funds for, any such loans shall be in the sole discretion of the Transportation Commission.

NOW THEREFORE BE IT RESOLVED, that the Board of the High Performance Transportation Enterprise hereby approves the South Gap Intra-Agency Agreement with CDOT in substantially the form presented to the HPTE Board and authorizes the HPTE Director to execute the South Gap Intra-Agency Agreement with such revisions or modifications, not inconsistent with this Resolution, as the HPTE Director may determine to be necessary or appropriate.

Signed as of October 16, 2019

Simon Logan
Secretary, HPTE Board of Directors