

Resolution – HPTE #411

Approving one (1) Memorandum of Understandings with the Federal Highway Administration, the Colorado Department of Transportation and the High Performance Transportation Enterprise for the I-70 Floyd Hill Project.

WHEREAS, the General Assembly created the Colorado High Performance Transportation Enterprise (“HPTE”), pursuant to C.R.S. § 43-4-806 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 C.R.S. § 43-4-806(2)(c)(I) to impose user fees on the travelling public for the privilege of using surface transportation infrastructure, and is further authorized pursuant to C.R.S. § 43-4-806(2)(c)(III) to contract with any governmental or non-governmental source of funding for loans to be used in support of HPTE’s functions; and

WHEREAS, HPTE, in partnership with CDOT, is undertaking a surface transportation project (the “Project”) across the State which generally consist of the completion of new tolled express lanes; and

WHEREAS, pursuant to 23 U.S.C. § 129(a)(1)(B), federal participation in the Projects is permitted for the initial construction of one (1) or more toll lanes that increase the capacity of a highway if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction; and

WHEREAS, 23 U.S.C. § 129(a) further sets forth certain additional conditions applicable to toll projects receiving federal participation, including, *inter alia*, limitations on the use of revenues, certain audit requirements, and equal access for over-the-road buses and public transportation buses; and

WHEREAS, 23 U.S.C. 166(b)(4) provides that a State agency may allow vehicles not otherwise exempt pursuant to 23 U.S.C. 166(b) to use a HOV facility by paying a toll; and

WHEREAS, HPTE desires to enter into Memorandum of Understandings (“MOU”) with the Federal Highway Administration (“FHWA”) and the Colorado Department of Transportation (“CDOT”) to memorialize HPTE’s commitment to comply with the requirements of 23 U.S.C. § 129(a) and 23 U.S.C. 166(b)(4), where applicable and as amended, as an ongoing condition to federal participation in the Projects.

NOW THEREFORE BE IT RESOLVED, the Board of Directors hereby approves the MOUs in the form presented and authorizes the HPTE Director to execute the MOU, with such revisions or modifications, not inconsistent with this Resolution, as the HPTE Director may determine to be necessary or appropriate.

Signed as of March 15, 2023

Simon Logan
Secretary, HPTE Board