

Colorado Transportation Investment Office Memorandum

To: CTIO Board of Directors
From: Piper Darlington, CTIO Director
Date: October 16, 2024

Subject: I-70 Floyd Hill Express Lanes Project Update

Purpose:

To provide an update to the CTIO Board of Directors on the I-70 Floyd Hill Express Lanes projects and associated financing that is currently underway through the Build America Bureau's (BABs) Transportation Infrastructure Finance and Innovation Act (TIFIA) program .

Requested Action:

No action is requested at this time. This item is informational only, and the materials presented in attachment A are intended to provide project background, revenue analysis, estimated schedule, and funding and financing.

Project Background

The I-70 Floyd Hill Express Lanes Project, from west of Evergreen to eastern Idaho Springs, encompasses an eight mile section of the I-70 Mountain Corridor that acts as an economic gateway for the state of Colorado and the nation.

Home to long-time residents, dozens of large and small businesses, and tourism traffic, this section of I-70 is in desperate need of improvements. CDOT spent several years studying the corridor, meeting with residents, stakeholders, and community leaders, and drafting potential solutions for this corridor, whose aging infrastructure is long overdue for replacement. Now, with support from stakeholders and national leaders, construction of the I-70 Floyd Hill Express Lanes Project is underway.

The \$737 million project will improve eight miles of the I-70 Mountain Corridor, from west of Evergreen to eastern Idaho Springs. It includes three main sections of improvements (West Section - approximately Idaho Springs to Hidden Valley, Central Section - approximately Hidden Valley to US 6, East Section - approximately US 6 to County Road 65), as well as early projects developed through the National Environmental Policy Act (NEPA) process.

Project features include:

- Add five miles of Express Lane in the westbound direction
- Provide westbound and eastbound I-70 with curve flattening and safety improvements
- Redevelop frontage roads for emergency and detour access

- Develop a mobility hub with EV infrastructure and accessibility options
- Greenway improvements, including those addressing Americans with Disabilities Act (ADA) items.
- Construction of a climbing lane on eastbound I-70 at Floyd Hill for heavy commercial or slow-moving vehicles
- Implementation of environmental mitigation to enhance wildlife connectivity, air/water quality, and stream conditions
- To design and construct the project, Kraemer North America was selected in 2023 by CDOT as the Project's Construction Manager/General Contractor (CM/GC)

Project Governance

The CTIO Board of Directors and Transportation Commission approved a Memorandum of Understanding on the project in March of 2023. It sets forth the eligibility requirements to operate the new Floyd Hill Express Lane and the reporting requirements CDOT and HPTE are to provide to FHWA. This MOU was a pre-construction clearance document that FHWA required to be executed before authorizing the project to proceed to construction. The MOU has been included for reference as Attachment B.

Financing Background

The Build America Bureau's (BAB) Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides credit assistance for qualified projects of regional and national significance. Eligible applicants include state and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities. TIFIA credit assistance is often available on more advantageous terms than in the financial market, making it possible to obtain financing for needed projects when that financing might not otherwise be available. CTIO has worked with the BAB on securing TIFIA financing for many key projects in its portfolio including: US36 and Central 70 (those loans are held by our private partners) as well as I-25 North (closed in 2023) and C-470 (closed in 2017).

Attachments:

- Attachment A: I-70 Floyd Hill Express Lanes PowerPoint
- Attachment B: Memorandum Of Understanding (Mou) Among the FHWA Colorado Division Office (Division), The Colorado High Performance Transportation Enterprise (HPTE), and The Colorado Department of Transportation (CDOT)

Attachment A: I-70 Floyd Hill Express Lanes PowerPoint

Attachment B: MOU among The FHWA Colorado Division Office (Division), The Colorado High Performance Transportation Enterprise (HPTE), and The Colorado Department Of Transportation (CDOT)

**MEMORANDUM OF UNDERSTANDING (MOU)
AMONG THE
FHWA COLORADO DIVISION OFFICE (Division),
THE COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE) AND
THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)**

WHEREAS, HPTE (a government owned business housed within CDOT) in partnership with CDOT desires to construct improvements on the I-70 Floyd Hill to Veterans Memorial Tunnels Project, a 8-mile stretch of I-70 between the Veterans Memorial Tunnel and Jefferson County Road 65. The project will improve an 8 mile section of the I-70 Mountain Corridor that is prone to traffic delays by adding a new full time tolled lane on westbound I-70 (totaling 8 miles) connecting at the western limit to the existing part time tolled Mountain Express Lane, adding an auxiliary lane for slower moving truck eastbound from the US6 interchange, improving design speed and sight distances, and implementing wildlife connectivity, air and water quality, stream conditions, and recreation. (collectively "Toll Facility"); and

WHEREAS, under Section 1512 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141, Congress modified 23 U.S.C. 129(a) to, among other things, eliminate the requirement for a toll agreement to be executed between CDOT and the FHWA as a prerequisite to toll authority for a Federal-aid highway project; and

WHEREAS, the Division, CDOT, and HPTE desire to execute this MOU in order to reflect the mutual understanding that 23 U.S.C. 129(a), as amended by MAP-21, applies to the Toll Facility; and

WHEREAS, this project to construct the Toll Facility meets the following toll eligibility requirement in 23 U.S.C. 129(a)(1):

- C. initial construction of one (1) or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, 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;

NOW THEREFORE, the Division, CDOT, and HPTE hereby agree as follows:

1. HPTE shall comply with 23 U.S.C. 129(a) as amended by MAP-21, with respect to project and the operation of the Toll Facility.
2. As provided at 23 U.S.C. 129(a)(3), as amended by Section 1512 of MAP-21, HPTE shall use the toll revenues collected from the operation of the Toll Facility only for:
 - i. debt service with respect to the projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing; and
 - ii. a reasonable return on investment of any private person financing the project, as determined by CDOT or interstate compact of States concerned; and

- iii. any costs necessary for the improvement and proper operation and maintenance of the Toll Facility, including reconstruction, resurfacing, restoration, and rehabilitation; and
 - iv. if the Toll Facility is subject to a public-private partnership agreement, payments that the party holding the right to toll revenues owes to the other party under the public-private partnership agreement; and
 - v. if HPTE certifies annually that the Toll Facility is being adequately maintained, any other purpose for which Federal funds may be obligated by a State under title 23, United States Code.
3. As provided under 23 U.S.C. 129(a)(3)(B), as amended by Section 1512 of MAP-21, HPTE shall, upon reasonable notice, make all its records pertaining to the toll facility subject to audit by the FHWA. Also, HPTE agrees to annually audit the records of the Toll Facility for compliance with the toll revenue use restrictions of 23 U.S.C. 129(a)(3), as amended by MAP-21, and report the results thereof to the Division. In lieu of the HPTE performing said audit, a report of an independent auditor furnished to the Division may satisfy the requirements of this section.
4. HPTE will submit the annual maintenance certification and audit report to the Division by the end of each fiscal year.

IN WITNESS THEREOF, the parties hereto have caused this MOU to be duly executed, on the date of the last signature below.

STATE OF COLORADO
HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

BY: _____
Nicholas J. Farber, Director

DATE: _____

STATE OF COLORADO
COLORADO DEPARTMENT OF TRANSPORTATION

BY: _____
Shoshana M. Lew, Executive Director

DATE: _____

FEDERAL HIGHWAY ADMINISTRATION
COLORADO DIVISION

BY: _____
John M. Cater, Division Administrator

DATE: _____