

### **Resolution - HPTE #473**

#### **Amended & Restated Memorandum of Understanding with the Federal Highway Administration**

**WHEREAS**, pursuant to C.R.S. § 43-4-806, *et seq.*, the General Assembly of the State of Colorado created the Colorado High Performance Transportation Enterprise (“HPTE”)<sup>1</sup> 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 in partnership with CDOT, completed and is operating the I-70 Peak Period Shoulder Lane Project, also known as the -70 Mountain Express Lane Project (the “Project”) over a segment of eastbound I-70 and a segment of westbound I-70 through the I-70 Mountain Corridor; and

Whereas, HPTE previously entered into a Memorandum of Understanding (“MOU”) with the Federal Highway Administration (“FHWA”) and CDOT, which set forth certain conditions of the design variance required for the Project, including, *inter alia*, restrictions on the hours of operation of the Project; and

Whereas, the parties previously modified the MOU to add a requirement to conduct an annual multidisciplinary review of the Project that includes a safety analysis and focuses on signing, striping, and operation of the Project, which the HPTE Board of Directors approved in Resolution #238; and

Whereas, the parties desire to make certain additional modifications to the MOU (the “Amended MOU”), namely, increases to the restrictions on the hours and days of operation of the Project; and

Whereas, HPTE has obtained approval from Clear Creek County concerning the changes to the restrictions on the hours and days of operation of the Project, which approval will be memorialized in a forthcoming 1041 Permit issued by Clear Creek County; and

Whereas, pursuant to Section 43-4-806(6)(h), C.R.S., the HPTE Board of Directors is authorized to make and enter into all agreements necessary or incidental to the exercise of its powers and performance of its duties;

Whereas, the HPTE Board of Directors has had an opportunity to review a draft of the Amended MOU;

Whereas, pursuant to Article VIII, subsection D of the CTIO Bylaws, the CTIO Director “shall have authority to approve and enter into contracts and any amendments of existing contracts so long as the total projected expenditures for either the operating fund or the special revenue fund respectively do not exceed the estimate of the available funds approved for the fiscal year by the Board”; and

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<sup>1</sup> The High Performance Transportation Enterprise (HPTE) is now doing business as the Colorado Transportation Investment Office (CTIO). CTIO is how the enterprise refers to itself now and in the future. However, the HPTE name is retained for legislative and legal documents.

Whereas, the Amended MOU will not cause the total expected expenditures for either the operating fund or the special revenue fund respectively to exceed the estimate of the available funds approved for the fiscal year by the Board; and

Now Therefore Be It Resolved, the Board of the High Performance Transportation Enterprise hereby approves the Director executing the Amended MOU on behalf of HPTE in the form substantially similar to general terms presented, and such changes thereto as may be approved by the HPTE Director and the office of the Colorado Attorney General, provided such changes shall not substantially and materially affect the terms and conditions of the agreement as presented to the HPTE Directors, nor otherwise be inconsistent with this resolution.

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Simon Logan, Secretary  
HPTE Board of Directors

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